DOCUMENT RESUME

ED 445 691 IR 057 905

TITLE	Idaho Library Laws, 1999-2000. Full Edition.
INSTITUTION	Idaho State Library, Boise.
PUB DATE	1999-00-00
NOTE	192p.; For the 1996-97 edition, see ED 405 901.
AVAILABLE FROM	For full text: http://www.state.id.us/isl/illd.htm.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC08 Plus Postage.
DESCRIPTORS	*Laws; Legal Responsibility; *Libraries; *Library Administration; Library Policy; Library Services; *State Legislation; *State Regulation
IDENTIFIERS	*Idaho; *Library Legislation

ABSTRACT

This new edition of the Idaho Library Laws contains changes through the 1998 legislative session and includes Idaho Code sections that legally affect city, school-community or district libraries, or the Idaho State Library. These sections include the basic library laws in Idaho Code Title 33, Chapters 25, 26, and 27, additional sections of the law referred to in the basic chapters, and other select code sections of general applicability to Idaho libraries. Highlights include: finance and revenue; tort claims against governmental entities; public writings; bribery and corruption; children and vulnerable adults; computer crime; indecency and obscenity; civil rights; school elections; school property; budget and tax levy; school funds; school bonds; state libraries; public libraries; Idaho educational technology initiative; management of institutional funds; elections; building facilities for physically handicapped; clean indoor air; powers; finance; conveyance of property; public depository law; sinking funds; prohibitions against contracts with officers; oath of office; ethics in government; contracts for printing--publication of notices; taxation; legislature; Administrative Procedure Act; and bingo and raffles. Appendices include: a table of additional Idaho Code sections containing the word "library" or "librarian"; a list of the 1999-2000 Idaho State Library Board and a select list of the Idaho State Library telephone numbers; and a subject index. (MES)

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FULL EDITION

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INTRODUCTION

This is a new edition of the Idaho Library Laws with changes through the 1998 legislative session. The compilation contains Idaho Code sections which legally affect city, school-community or district libraries, or the Idaho State Library. These sections include the basic library laws in Idaho Code Title 33, Chapters 25, 26 and 27, additional sections of the law referred to in the basic chapters, and other select code sections of general applicability to Idaho libraries.

The Idaho Library Laws should be used as both an orientation tool for trustees and librarians, and as a starting point for investigating legal questions that arise in the management of the library. Legal interpretation of the law should be left to a qualified attorney.

There are a few things to note about the format of this publication. The compilation is color coded. The colored pages in the middle of the compilation represent the basic library laws from the Idaho Code, (Title 33, Chapters 25, 26, 27). These include sections of the law discussing the Idaho State Library, city and school-community libraries and library districts. The white pages of the compilation represent code sections which are referred to in the basic library laws or are of general applicability to local government entities. The text of the laws in this compilation are presented in numerical order by code section. The Idaho Library Laws publication is printed in looseleaf format for ease in photocopying.

To help the user, this edition has three (3) appendices. Appendix A is a table of additional Idaho Code sections containing the word "library" or "librarian." Appendix B is a list of the 1999-2000 Idaho State Library Board and a select list of the Idaho State Library telephone numbers. Appendix C is a subject index to Idaho Code, Title 33, Chapter 25, 26 and 27. The subject index to the laws has been reprinted (with omissions) with permission from the Lexis Law Publishing Company.

IDAHO CONSTITUTION
ARTICLE VII
FINANCE AND REVENUE

Section 5. Taxes to be uniform -- Exemptions. All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

TITLE 6, CHAPTER 9
TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES

6-902. Definitions. As used in this act:

1. "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

2. "Political subdivision" means any county, city, municipal corporation, health district, school district, irrigation district, an operating agent of irrigation districts whose board consists of directors of its member districts, special improvement or taxing district, or any other political subdivision or public corporation. As used in this act, the terms "county" and "city" also mean state licensed hospitals and attached nursing homes established by counties pursuant to chapter 36, title 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37, title 31, Idaho Code.

3. "Governmental entity" means and includes the state and political subdivisions as herein defined.

4. "Employee" means an officer, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity, temporarily or permanently in the service of the governmental entity, whether with or without compensation, but the term employee shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which this act applies in the event of a claim.

5. "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence.

6. "Property damage" means injury or destruction to tangible property caused by an occurrence.

7. "Claim" means any written demand to recover money damages from a governmental entity or its employee which any person is legally entitled to recover under this act as compensation for the negligent or otherwise wrongful act or omission of a governmental entity or its employee when acting within the course or scope of his employment.

6-903. Liability of governmental entities -- Defense of employees.

(a) Except as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties, whether arising out of a governmental or proprietary function, where the governmental entity if a private person or entity would be liable for money damages under the laws of the state of Idaho, provided that the governmental entity is subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the negligent or otherwise wrongful acts or omissions of the governmental entity or its employees.

(b) (i) A governmental entity shall provide a defense to its employee and be responsible for the payment of any judgment on any claim or civil lawsuit against an employee for money damages arising out of any act or omission within the course and scope of his employment; provided that the governmental entity and its employee shall be subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the act or omission of the employee; (ii) provided further, that to the extent there is valid and collectible, applicable insurance or any other right to defense or indemnification legally available to and for the protection of an employee, while operating or using an automobile, aircraft or other vehicle not owned or leased by the governmental entity and while acting within the course and scope of his/her employment or duties, the governmental entity's duty hereunder to indemnify the employee and/or defend any such claim or lawsuit arising out of the operation or use of such personal automobile, aircraft or vehicle, shall be secondary to the obligation of the insurer or indemnitor of such automobile, aircraft or vehicle, whose obligation shall be primary; and (iii) provided further, this paragraph shall not be construed to alter or relieve any such indemnitor or insurer of any legal obligation to such employee or to any governmental entity vicariously liable on account of or legally responsible for damages due to the allegedly wrongful error, omissions, conduct, act or deed of such employee.

(c) The defense of its employee by the governmental entity shall be undertaken whether the claim and civil lawsuit is brought in Idaho district court under Idaho law or is brought in a United States court under federal law. The governmental entity may refuse a defense or disavow and refuse to pay any judgment for its employee if it is determined that the act or omission of the employee was not within the course and scope of his employment or included malice or criminal intent.

(d) A governmental entity shall not be entitled to contribution or indemnification, or reimbursement for legal fees and expenses from its employee unless a court shall find that the act or omission of the employee was outside the course and scope of his employment or included malice or criminal intent. Any action by a governmental entity against its employee and any action by an employee against the governmental entity for contribution, indemnification, or necessary legal fees and expenses shall be tried to the court in the same civil lawsuit brought on the claim against the governmental entity or its employee.

(e) For the purposes of this act and not otherwise, it shall be a rebuttable presumption that any act or omission of an employee within the time and at the place of his employment is within the course and scope of his employment and without malice or criminal intent.

(f) Nothing in this act shall enlarge or otherwise adversely affect the liability of an employee or a governmental entity. Any immunity or other bar to a civil lawsuit under Idaho or federal law shall remain in effect. The fact that a governmental entity may relieve an employee from all necessary legal fees and expenses and any judgment arising from the civil lawsuit shall not under any circumstances be communicated to the trier of fact in the civil lawsuit.

6-904. Exceptions to governmental liability. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent shall not be liable for any claim which:

1. Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

2. Arises out of the imposition or establishment of a quarantine by a governmental entity, whether such quarantine relates to persons or property.

3. Arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

4. Arises out of the activities of the Idaho national guard when engaged in training or duty under sections 316, 502, 503, 504, 505 or 709, title 32, United States Code.

5. Arises out of the activities of the Idaho national guard when engaged in combatant activities during a time of war.

6. Arises out of or results from riots, unlawful assemblies, public demonstrations, mob violence or civil disturbances.

7. Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

6-904A. Exceptions to governmental liability. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, shall not be liable for any claim which:

1. Arises out of the assessment or collection of any tax or fee.

2. Arises out of injury to a person or property by a person under supervision, custody or care of a governmental entity or by or to a person who is on probation or parole or any work-release program, or by or to a person receiving services from a mental health center, hospital or similar facility.

6-904B. Exceptions to governmental liability. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, shall not be liable for any claim which:

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.

2. Arises out of the cancellation or rescission, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.

3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.

4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.

5. Arises out of any act or omission providing or failing to provide medical care to a prisoner, inmate or person in the custody of any city, county or state jail, detention center or correctional facility.

6. Arises out of a decision of the state commission of pardons and parole or its executive director when carrying out the business of the commission.

6-904C. Definitions. For the purposes of this chapter, and this chapter only, the following words and phrases shall be defined as follows:

1. "Gross negligence" is the doing or failing to do an act which a reasonable person in a similar situation and of similar responsibility would, with a minimum of contemplation, be inescapably drawn to recognize his or her duty to do or not do such act and that failing that duty shows deliberate indifference to the harmful consequences to others.

2. "Reckless, willful and wanton conduct" is present only when a person intentionally and knowingly does or fails to do an act creating unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

6-923. Authority of political subdivisions to purchase insurance. All political subdivisions of the state shall have the authority to purchase the necessary liability insurance for themselves and their employees.

6-924. Policy limits -- Minimum requirements. Every policy or contract of insurance or comprehensive liability plan of a governmental entity as permitted under the provisions of this chapter shall provide that the insurance carrier pay on behalf of the insured governmental entity or its employee to a limit of not less than five hundred thousand dollars ($500,000) for bodily or personal injury, death, or property damage or loss as the result of any one (1) occurrence or accident, regardless of the number of persons injured or the number of claimants.

6-927. Tax levy to pay comprehensive liability plan. Notwithstanding any provisions of law to the contrary, all political subdivisions shall have authority to levy an annual property tax in the amount necessary to provide for a comprehensive liability plan whether by the purchase of insurance or otherwise as herein authorized; provided, that the revenues derived therefrom may not be used for any other purpose.

6-928. Tax levy to pay claim or judgment. Notwithstanding any provisions of law to the contrary and in the event there are no funds available, the political subdivision shall levy and collect a property tax, at the earliest time possible, in an amount necessary to pay a claim or judgment arising under the provisions of this act where the political subdivision has failed to purchase insurance or otherwise provide a comprehensive liability plan to cover a risk created under the provisions of this act.

TITLE 9, CHAPTER 3
PUBLIC WRITINGS

9-337. Definitions. As used in sections 9-337 through 9-347, Idaho Code:

(1) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(2) "Custodian" means the person having personal custody and control of the public records in question. If no such designation is made by the public agency, then custodian means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.

(3) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(4) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct which the public agency has regulatory authority or law enforcement authority over.

(5) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(6) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(7) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(8) "Public agency" means any state or local agency as defined in this section.

(9) "Public official" means any state, county, local district or governmental official or employee, whether elected, appointed or hired.

(10) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(11) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia.

(12) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

9-338. Public records -- Right to examine.

(1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) The custodian shall make no inquiry of any person who applies for a public record, except to verify the identity of a person requesting a record in accordance with section 9-342, Idaho Code, to ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 9-348, Idaho Code, or as otherwise provided by law. The person may be required to make a written request and provide their name, a mailing address and telephone number. [The custodian shall make no inquiry of any person who applies for a public record, except that the person may be required to make a written request and provide a mailing address and telephone number, and except as required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law.]

(5) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(6) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(7) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(8) (a) A public agency or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law. The actual cost shall not include any administrative or labor costs resulting from locating and providing a copy of the public record; provided however, that a public agency or public official may establish a fee to recover the actual labor cost associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or

(ii) The request includes records from which nonpublic information must be deleted; or

(iii) The actual labor associated with locating and copying documents for a request exceeds two (2) person hours.

(b) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(i) The agency's direct cost of copying the information in that form;

(ii) The standard cost, if any, for selling the same information in the form of a publication.

The custodian may require advance payment of the cost of copying. Any money received by the public agency shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund.

(c) The public agency may not charge any cost or fee for copies or labor when the requester demonstrates either:

(i) The inability to pay; or

(ii) That the public's interest or the public's understanding of the operations or activities of government or its records would suffer by the assessment or collection of any fee.

(9) A public agency shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(10) Nothing contained herein shall prevent a public agency from disclosing statistical information that is not descriptive of an identifiable person or persons.

9-339. Response to request for examination of public records.

(1) A public agency shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency that a longer period of time is needed to locate or retrieve the public records, the public agency shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request.

(2) If the public agency fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency has reviewed the request or shall state that the public agency has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so. (.)

9-340E. Exemptions from disclosure -- Archaeological, endangered species, libraries, licensing exams. The following records are exempt from disclosure:

(1) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.

(2) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(3) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(4) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(5) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

9-341. Exempt and nonexempt public records to be separated. If any public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public agency shall, upon receipt of a request for disclosure, separate the exempt and nonexempt material and make the nonexempt material available for examination provided that a denial of a request to copy nonexempt material in a public record shall not be based upon the fact that such nonexempt material is contained in the same public record as the exempt material.

9-342. Access to records about a person by a person.

(1) A person may inspect and copy the records of a public agency pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency shall either:

(a) Make any correction of any portion of the record which the person establishes is not accurate, relevant, or complete; or

(b) Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 9-343 and 9-344, Idaho Code, and the court may award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review otherwise exempt investigatory records of a public agency if the investigation is ongoing, information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable or the information relates to adoption records or information which is otherwise exempt from disclosure by statute.

9-343. Proceedings to enforce right to examine or to receive a copy of records -- Retention of disputed records.

(1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency to make the information available for public inspection in

accordance with the provisions of this act. The petition contesting the public agency's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in this act shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings.

9-344. Order of the court -- Court costs and attorney fees.

(1) Whenever it appears that certain public records are being improperly withheld from a member of the public, the court shall order the public official charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the pleadings filed by the parties and such oral arguments and additional evidence as the court may allow. The court may examine the record in camera in its discretion.

(2) If the court finds that the public official's decision to refuse disclosure is not justified, it shall order the public official to make the requested disclosure. If the court determines that the public official was justified in refusing to make the requested record available, he shall return the item to the public official without disclosing its content and shall enter an order supporting the decision refusing disclosure. In any such action, the court shall award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request or refusal to provide records was frivolously pursued.

9-345. Additional penalty. If the court finds that a public official has deliberately and in bad faith improperly refused a legitimate request for inspection or copying, a civil penalty shall be assessed against the public official in an amount not to exceed one thousand dollars ($1,000), which shall be paid into the general account.

9-346. Immunity. No public agency, public official, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record governed by the provisions of this chapter if the public agency, public official or custodian acted in good faith in attempting to comply with the provisions of this chapter.

9-347. Agency guidelines. By January 1, 1991, every state agency shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency, the custodian, and the physical location of such documents.

9-348. Prohibition on distribution or sale of mailing or telephone number lists -- Penalty. (1) Except as provided in subsections (2), (3), (4), (5), (6), (7) and (8) of this section, in order to protect the privacy of those who deal with public agencies:

(a) No agency may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency may be used as a mailing list or a telephone number list except by the agency or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to title 34, Idaho Code, or to lists of the names of employees governed by chapter 53, title 67, Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by Idaho law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) This section does not apply to lists to be used for ordinary utility purposes which are requested by a person who supplies utility services in this state. Ordinary utility purposes, as used in this chapter only, do not include marketing or marketing research.

(8) This section does not apply to lists to be used to give notice required by any statute, ordinance, rule, law or by any governing agency.

(9) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1)(b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars ($1,000) which shall be paid into the general account.

9-349. Confidentiality language required in this chapter. On and after January 1, 1996, any statute which is added to the Idaho Code and provides for the confidentiality or closure of any public record or class of public records shall be placed in this chapter. Any statute which is added to the Idaho Code on and after January 1, 1996, and which provides for confidentiality or closure of a public record or class of public records and is located at a place other than this chapter shall be null, void and of no force and effect regarding the confidentiality or closure of the public record and such public record shall be open and available to the public for inspection as provided in this chapter.

[9-349A]9-350. Severability. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

TITLE 18, CHAPTER 13
BRIBERY AND CORRUPTION

18-1351. Bribery and corrupt practices -- Definitions. Unless a different meaning plainly is required in this chapter:

(1) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested, but not an advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose.

(2) "Confidential information" means knowledge gained through a public office, official duty or employment by a governmental entity which is not subject to disclosure to the general public and which, if utilized in financial transactions would provide the user with an advantage over those not having such information or result in harm to the governmental entity from which it was obtained.

(3) "Government" includes any branch, subdivision or agency of the government of the state or any locality within it and other political subdivisions including, but not limited to, highway districts, planning and zoning commissions and cemetery districts, and all other governmental districts, commissions or governmental bodies not specifically mentioned in this chapter.

(4) "Harm" means loss, disadvantage or injury, including loss, disadvantage or injury to any other person or entity in whose welfare he is interested.

(5) "Official proceeding" means a proceeding heard or which may be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

(6) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level of responsibility.

(7) "Pecuniary benefit" is any benefit to a public official or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(8) "Public servant" means any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function; but the term does not include witnesses.

(9) "Administrative proceeding" means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals.

18-1356. Gifts to public servants by persons subject to their jurisdiction.

(1) Regulatory and law enforcement officials. No public servant in any department or agency exercising regulatory functions, or conducting inspections or investigations, or carrying on civil or criminal litigation on behalf of the government, or having custody of prisoners, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be subject to such regulation,

inspection, investigation or custody, or against whom such litigation is known to be pending or contemplated.

(2) Officials concerned with government contracts and pecuniary transactions. No public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims or other pecuniary transactions of the government shall solicit, accept or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim or transaction.

(3) Judicial and administrative officials. No public servant having judicial or administrative authority and no public servant employed by or in a court or other tribunal having such authority, or participating in the enforcement of its decisions, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public servant or a tribunal with which he is associated.

(4) Legislative officials. No legislator or public servant employed by the legislature or by any committee or agency thereof shall solicit, accept or agree to accept any pecuniary benefit in return for action on a bill, legislation, proceeding or official transaction from any person known to be interested in a bill, legislation, official transaction or proceeding, pending or contemplated before the legislature or any committee or agency thereof.

(5) Exceptions. This section shall not apply to:

(a) fees prescribed by law to be received by a public servant, or any other benefit for which the recipient gives legitimate consideration or to which he is otherwise legally entitled; or

(b) gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the receiver; or

(c) trivial benefits not to exceed a value of fifty dollars ($50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(6) Offering benefits prohibited. No person shall knowingly confer, or offer or agree to confer, any benefit prohibited by the foregoing subsections.

(7) Grade of offense. An offense under this section is a misdemeanor and shall be punished as provided in this chapter.

18-1359. Using public position for personal gain.

(1) No public servant shall:

(a) Without the specific authorization of the governmental entity for which he serves, use public funds or property to obtain a pecuniary benefit for himself.

(b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of his official duties. This prohibition shall not include trivial benefits not to exceed a value of fifty dollars ($50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves.

(d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except as provided in section 18-1361, Idaho Code.

(e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant when such appointment is made on the agreement or promise of such other public servant or any other public servant to appoint or furnish employment to anyone so related to the public servant making or voting for such appointment. Any public servant who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished as provided in this chapter.

(2) No person related to any member of the legislature by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty within the legislative branch of government or otherwise be employed by the legislative branch of government when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(3) No person related to a mayor or member of a city council by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the mayor's or city council's city when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(4) No person related to a county commissioner by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the commissioner's county when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(5) The prohibitions contained within this section shall not include conduct defined by the provisions of section 59-703(4), Idaho Code.

(6) The prohibitions within this section and section 18-1356, Idaho Code, as it applies to part-time public servants, does not include those actions or conduct involving the public servant's business, profession or occupation and unrelated to the public servant's official conduct, and does not apply to a pecuniary benefit received in the normal course of a legislator's business, profession or occupation and unrelated to any bill, legislation, proceeding or official transaction.

18-1360. Penalties. Any public servant who violates the provisions of this chapter, unless otherwise provided, shall be guilty of a misdemeanor and may be punished by a fine not exceeding one thousand dollars ($1,000), or by incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration. In addition to any penalty imposed in this chapter, any person who violates the provisions of this chapter may be required to forfeit his office and may be ordered to make restitution of any benefit received by him to the governmental entity from which it was obtained.

18-1361. Self-interested contracts -- Exception. Where there are less than three (3) suppliers of a good or a service within a fifteen (15) mile radius of where the good or service is to be provided, it shall not constitute a violation of the provisions of subsection (1) (d) or (e) of section 18-1359, Idaho Code, for a public servant or for his relative to contract with the public body of which the public servant is a member if the contract is reasonably necessary to respond to a disaster as defined in chapter 10, title 46, Idaho Code, or if the procedures listed below are strictly observed. For purposes of this section, "relative" shall mean any person related to the public servant by blood or marriage within the second degree.

(1) The contract is competitively bid and the public servant or his relative submits the low bid; and

(2) Neither the public servant nor his relative takes any part in the preparation of the contract or bid specifications, and the public servant takes no part in voting on or approving the contract or bid specifications; and

(3) The public servant makes full disclosure, in writing, to all members of the governing body, council or board of said public body of his interest or that of his relative and of his or his relative's intention to bid on the contract; and

(4) Neither the public servant nor his relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business.

18-1361A. Noncompensated appointed public servant -- Relatives of public servant -- Exception. When a person is a public servant by reason of his appointment to a governmental entity board for which the person receives no salary or fees for his service on said board, it shall not constitute a violation of the provisions of subsection (1)(d) or (e) of section 18-1359, Idaho Code, for a public servant or for his relative to contract with the public body of which the public servant is a member if the procedures listed below are strictly observed. For purposes of this section, "relative" shall mean any person related to the public servant by blood or marriage within the second degree.

(1) The contract is competitively bid and the public servant or his relative submits the low bid; and

(2) Neither the public servant nor his relative takes any part in the preparation of the contract or bid specifications, and the public servant takes no part in voting on or approving the contract or bid specifications; and

(3) The public servant makes full disclosure, in writing, to all members of the governing body, council or board of said public body of his interest or that of his relative and of his or his relative's intention to bid on the contract; and

(4) Neither the public servant nor his relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business.

18-1362. Cause of action. A prosecuting attorney or the attorney general may bring an action in the district court of the county in which a public servant resides to enjoin a violation of the provisions of this chapter and to require the public servant to make restitution to the government of any pecuniary gain obtained. The prevailing party shall be awarded his costs and reasonable attorney fees.

TITLE 18, CHAPTER 15
CHILDREN AND VULNERABLE ADULTS

18-1517. Disseminating material harmful to minors -- Defenses. 1. In any prosecution for disseminating material harmful to minors, it is an affirmative defense that:

(a) The defendant had reasonable cause to believe that the minor involved was eighteen (18) years old or more, or such minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was eighteen (18) years of age or older.

(b) The minor involved was accompanied by his parent or legal guardian, or by an adult and the adult represented that he was the minor's parent or guardian or an adult and signed a written statement to that effect.

(c) The defendant was the parent or guardian of the minor involved.

(d) The defendant was a bona fide school, college, university, museum or public library, or was acting in his capacity as an employee of such an organization or a retail outlet affiliated with and serving the educational purposes of such an organization.

TITLE 18, CHAPTER 22 COMPUTER CRIME

18-2201. Definitions. As use in this chapter:

(1) To "access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system, or computer network.

(2) "Computer" means, but is not limited to, an electronic device which performs logical, arithmetic, or memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network.

(3) "Computer network" means, but is not limited to, the interconnection of communication lines (including microwave or other means of electronic communication) with a computer through remote terminals, or a complex consisting of two (2) or more interconnected computers.

(4) "Computer program" means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) "Computer software" means, but is not limited to, computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(6) "Computer system" means, but is not limited to, a set of related, connected or unconnected, computer equipment, devices, and software.

(7) "Property" includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.

(8) "Services" include, but are not limited to, computer time, data processing, and storage functions.

18-2202. Computer crime.

(1) Any person who knowingly accesses, attempts to access or uses, or attempts to use any computer, computer system, computer network, or any part thereof for the purpose of: devising or executing any scheme or artifice to defraud; obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises; or committing theft; commits computer crime.

(2) Any person who knowingly and without authorization alters, damages, or destroys any computer, computer system, or computer network described in section 18-2201, Idaho Code, or any computer software, program, documentation, or data contained in such computer, computer system, or computer network commits computer crime.

(3) Any person who knowingly and without authorization uses, accesses, or attempts to access any computer, computer system, or computer network described in section 18-2201, Idaho Code, or any computer software, program, documentation or data contained in such computer, computer system, or computer network, commits computer crime.

(4) A violation of the provisions of subsections (1) or (2) of this section shall be a felony. A violation of the provisions of subsection (3) of this section shall be a misdemeanor.

TITLE 18, CHAPTER 41 INDECENCY AND OBSCENITY

18-4101. Definitions. The following definitions are applicable to this act:

(A) "Obscene" material means any matter:

(1) which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(2) which depicts or describes patently offensive representations or descriptions of:

(a) ultimate sexual acts, normal or perverted, actual or simulated; or

(b) masturbation, excretory functions, or lewd exhibition of the genitals or genital area. Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

In prosecutions under this act, where circumstances of production, presentation, sale, dissemination, or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.

(B) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience or clearly defined deviant sexual group, the appeal of the subject matter shall be judged with reference to such audience or group.

(C) "Matter" or "material" means any book, magazine, newspaper, or other printed or written material; or any picture, drawing, photograph, motion picture, or other pictorial representation; or any statue or other figure; or any recording, transcription, or mechanical, chemical, or electrical reproduction; or any other articles, equipment, machines, or materials.

(D) "Person" means any individual, partnership, firm, association, corporation, or other legal entity; or any agent or servant thereof.

(E) "Distribute" means to transfer possession of, whether with or without consideration, by any means.

(F) "Knowingly" means having actual or constructive knowledge of the character of the subject matter or live conduct. A person shall be deemed to have constructive knowledge of the character of the subject matter or live conduct if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the matter, and the failure to inspect the contents is either for the purpose of avoiding such disclosure or is due to reckless conduct.

(G) "Reckless conduct" is conduct which consciously disregards a substantial and unjustifiable risk that matter may be obscene. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that an average law-abiding person would observe in the actor's situation under like circumstances.

(H) "Exhibit" means to show or display.

(I) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, where:

(1) the average person, applying contemporary community standards, would find such conduct, when considered as a whole, appeals to the prurient interest; and

(2) the conduct is patently offensive because it consists of:

(a) ultimate sexual acts, normal or perverted, actual or simulated; or

(b) masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any conduct which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value. In prosecutions under this act, where circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the conduct and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political or scientific value.

18-4102. Affirmative defense. It is not innocent but calculated purveyance which is prohibited. This act shall not apply to any persons who may possess or distribute obscene matter or participate in conduct otherwise proscribed by this act when such possession, distribution, or conduct occurs:

(A) within the scope of employment of law enforcement and judicial activities; or

(B) within the scope of employment of bona fide school, college, university, museum or public library activities or within the scope of employment of such an organization or a retail outlet affiliated with and serving the educational purposes of such an organization; or

(C) within the scope of employment as a moving picture machine operator, assistant operator, usher, or ticket taker in a motion picture theater in connection with a motion picture film or show exhibited in such theater, if such operator or assistant operator has no financial interest in the motion picture theater wherein he is so employed other than his wages received or owed, and such person consents to give testimony regarding such employment in all judicial proceedings brought under this act, when granted immunity by the trial judge; or

(D) under like circumstances of justification where the possession, distribution or conduct possesses serious literary, artistic, political or scientific value.

If this issue is not presented by the prosecution's evidence, the defendant may raise the same as an affirmative defense by presenting some evidence thereon. Where raised, the prosecution must sustain the burden of proving the defendant guilty beyond a reasonable doubt as to that issue.

TITLE 18, CHAPTER 73 CIVIL RIGHTS

18-7301. Freedom from discrimination constitutes a civil right. The right to be free from discrimination because of race, creed, color, sex, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(1) The right to obtain and hold employment without discrimination.

(2) The right to the full enjoyment of any of the accommodations, facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

18-7302. Definitions. Terms used in this chapter shall have the following definitions:

(a) "Every person" shall be construed to include any owner, lessee, proprietor, manager, agent or employee whether one or more natural persons, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees, receivers, of this state and its political subdivisions, boards and commissions, engaged in or exercising control over the operation of any place of public resort, accommodation, assemblage or amusement.

(b) "Deny" is hereby defined to include any act which directly or indirectly, or by subterfuge, by a person or his agent or employee, results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction, or unequal treatment or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of race, creed or color.

(c) "Full enjoyment of" shall be construed to include the right to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed or color, to be treated as not welcome, accepted, desired or solicited.

(d) "National origin" includes "ancestry."

(e) "Any place of public resort, accommodation, assemblage or amusement" is hereby defined to include, but not to be limited to any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or public halls, public elevators and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or any educational institution wholly or partially supported by public funds, or schools of special instruction, or nursery schools, or day care centers or children's camps; nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation, which is by its nature distinctly private provided that where public use is permitted that use shall be covered by this section; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; and the right of a natural parent in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed.

TITLE 33, CHAPTER 4
SCHOOL ELECTIONS

33-401. Legislative intent. The legislature finds that a comprehensive and integrated statutory scheme for the conduct of school elections is critical to the public's understanding of and confidence in the public school election system. It is therefore the intent of the legislature that with the exception of chapter 24, title 34, Idaho Code, and the provisions of title 18, Idaho Code, which shall be fully applicable, or unless otherwise specifically provided, all school elections shall be governed by the provisions of this chapter.

33-402. Notice requirements. a. Notice of all school elections must be given by posting and publishing notice of said elections and such notice shall state:

1. The date of holding the election;
2. The hours between which the polls will be open;
3. The definite place or places of holding the election;
4. In the case of election of trustees, the offices to be filled, the trustee zones, and a statement that declarations of candidacy must be filed not later than 5:00 p.m. on the fifth Friday prior to the day of the election;
5. In the case of bond election, the amount of the issue, the purpose and period of the issue;
6. In the case of the assumption of a debt, the amount of any such debt to be assumed by each district, or part of a district; and
7. In all other elections, a brief statement of the question being submitted to the electors.

b. In school elections involving (i) the incurring or increasing of a debt, (ii) approving a levy for a plant facilities reserve fund and term thereof, (iii) excising and annexing territory, (iv) consolidating districts, or (v) dividing a district, notice of the election shall be posted not less than twenty-one (21) days prior to the day of the election in at least three (3) places in each district participating in or affected by such election, one (1) of which places shall be at or near the main door of the administrative offices of each such district, and by publishing at least once each week for three (3) consecutive weeks prior to the day of the election in a newspaper as provided in section 60-106, Idaho Code, published in the county or in any county in which such district may lie and having general circulation within such district.

c. Notice of all other school elections shall be given in the same manner, except that the posting shall be for not less than ten (10) days, and publishing shall be at least once each week for two (2) consecutive weeks prior to the day of the election.

d. Notice of the deadline for filing declaration of candidacy for election of trustees shall be posted for not less than ten (10) days and published at least once each week for two (2) consecutive weeks prior to the last day for filing nominating petitions as required by section 33-502, Idaho Code.

e. In elections for excising and annexing the territory of school districts, or to create new school districts by consolidation or division, the clerk of the board of county commissioners of the county in which the district lies, or of the home county if the district be a joint district, shall prepare, post, sign and arrange for the publishing of, the notice of election. In all other elections it shall be the duty of the clerk of the board of trustees so to do.

f. Notice of annual meeting of elementary school districts as provided for in section 33-510, Idaho Code, and of intent to discontinue a school, as provided for in section 33-511, Idaho Code, and annual budget hearing as provided for in section 33-801, Idaho Code, shall be given by posting and publishing as outlined in subsection b of this section except that posting shall be for not less than ten (10) days, and publishing shall be once in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district.

g. Notices calling for bids for the acquisition, use, or disposal of real and personal property as provided for in section 33-601, Idaho Code, and contracting for transportation services as provided for in section 33-1510, Idaho Code, shall be given by publishing twice, not less than one (1) week apart in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district. The notice inviting bids shall set a date and place for opening bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids; except that the notice for contracting for transportation services shall be made not less than four (4) weeks before the date of opening bids.

h. Proof of posting notice shall be upon the affidavit of the person posting the same; and proof of publication shall be upon the affidavit of the publisher of the newspaper or newspapers respectively. Such affidavits shall be filed with his board by the clerk responsible for the posting and the publishing of said notice, before the day of the election named in the notice.

33-403. Conduct of elections. In all school elections each polling place shall be presided over by a board of election. Each board shall consist of one (1) or more judges and a clerk, who shall be qualified school district electors of the district. The board of election shall determine the time of duty of each judge and clerk as full time or part time on duty and require those who count the ballots to remain on duty until the ballots are counted. Before entering upon his duties, each member of the board of election shall take an oath, which shall be administered by any qualified school district elector of the district, faithfully to perform the duties of such member.

In any election involving excision and annexation of territory, or consolidation of districts, or division of a district, the board of county commissioners of any county affected by such election shall appoint the boards of election and designate the polling places within that county; and in all other school elections, the board of trustees of the district shall appoint the board or boards of election.

Polling places designated for school election shall conform to the accessibility standards established by the secretary of state pursuant to the authority granted in section 34-302, Idaho Code.

While the polls are open neither the board of election nor any person shall give information on the progress of the election. All elections shall be by secret and separate ballot, each ballot to be in print, type or other legible writing. The ballots in each case shall be prepared by the person responsible for signing, posting and arranging the publishing of the notice of election, and shall be in such form that an elector may express a choice in the affirmative or in the negative of any proposition to be voted on or the election of any person, by marking a cross (X). Ballots shall carry a brief but clear statement of any proposition being submitted; and

1. In the case of an election involving the creation or assumption of debt, the amount of the issue, purpose and period of the issue, or the amount to be assumed;

2. In the case of election of trustees, the names of the nominees, together with space in which an elector may write in the name or names of other qualified persons;

3. In the case of an election involving excision and annexation of territory, or the consolidation of school districts, or the division of a school district, a description of the proposed change.

In all school elections, the ballots used by the electors shall be kept in a sealed container until the polls are closed at the time specified in the notice of election.

It is intended that no informalities in the conduct of school elections shall invalidate the same if the election shall have been otherwise fairly held.

33-403A. Assistance to voter.

a. If any elector is unable, due to physical disability or other handicap, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his presence but in a secret manner, mark and return the same to such election officer who shall proceed to deposit the ballot as provided by law.

b. If any elector, who is unable by reason of physical disability or other handicap to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be given assistance by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present it to the judge of election who shall deposit the ballot as provided by law.

33-403B. Spoiled ballots. No person shall take or remove any ballot from the polling place. If an elector inadvertently or by mistake spoils a ballot, he shall return it folded to the distributing clerk, who shall give him another ballot. The ballot thus returned shall, without examination, be immediately cancelled by writing across the back, or outside of the ballot as folded, the words "spoiled ballot, another issued," and the spoiled ballot shall be deposited in a box provided for that purpose.

33-403C. Challengers -- Watchers.

a. The school district clerk shall, upon receipt of a written request to be received no later than five (5) days prior to the day of election, direct that the election judges permit one (1) person authorized by each candidate to be at the polling place for the purpose of challenging voters, and shall if requested, permit any candidate to be present to watch the receiving and counting of votes.

b. Where the issue before the electors of a school district is other than the election of officers, the clerk of the school district shall upon receipt of a written request, such request to be received no later than five (5) days prior to the date of voting on the issue or issues, direct that the election judges permit one (1) pro and one (1) con person to be at the polling place for the purpose of challenging voters and to watch the receiving and counting of votes. Such authorization shall be evidenced in writing signed by the requesting person and shall state which position relative to the issue or issues the person represents. Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. Persons permitted to be present to watch the counting of votes shall not absent themselves until the polls are closed.

33-404. Places elections to be held. In elections involving excision and annexation of territory, or the consolidation of school districts, or the division of a school district, each notice of election shall designate that polling places shall be established, as follows:

In an election involving excision and annexation of territory, polling places shall be established in the district to which the territory or area is to be annexed; in the territory or area to be annexed; and in the remainder of the school district from which the territory or area is to be excised.

In an election involving consolidation of school districts, polling places shall be established in each district proposed to be consolidated.

In an election involving the division of a school district, polling places shall be established in each proposed trustee zone of each school district proposed to be created by the division.

In any school election held within a joint school district, polling places shall be designated and established, within such district, in each county in which ten (10) or more electors of the district reside. In an area where less than ten (10) electors reside, a polling place shall be designated upon petition to the board of trustees, received not less than twenty-eight (28) days preceding the date of the election, of three (3) or more electors within the affected area, or may be designated at the option of the board of trustees.

33-405. Qualifications of school electors. Any person voting, or offering to vote, in any school election must be, at the time of the election eighteen (18) years of age and a United States citizen who has resided in this state and in the school district at least thirty (30) days next preceding the election in which the elector desires to vote. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for school district trustees for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote.

Registration requirements set forth in chapter 4, title 34, Idaho Code, shall be applicable to school elections, and in addition to the foregoing qualifications, a school elector shall have executed, in writing and immediately before voting, a form of elector's oath attesting that he or she possesses the qualifications of a school elector prescribed by this section and indicating the mailing address, residence address or any other necessary information definitely locating the residence of the school elector. The elector may be required to furnish to the election official proof of residence, which proof shall be established by either an Idaho motor vehicle operator's license or any other document definitely establishing the elector's residence within the school district or trustee zone.

33-405A. Residence defined.

a. Residence, for the purpose of voting in school elections, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

b. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-602G, Idaho Code, is filed, and motor vehicle registration.

c. A qualified elector who has left his home and gone into another state or territory, county, school district or in the event of trustee election another district trustee zone for a temporary purpose only shall not be considered to have lost his residence.

d. A qualified elector shall not be considered to have gained a residence in any school district or, in the event of a trustee election, any trustee zone of a school district of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when the elector has accomplished the purpose that brought him there.

e. If a qualified elector moves to another school district or trustee zone or to another state or any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in the school district or trustee zone in which he had previously resided.

33-405B. Challenge of voters. Any judge may challenge any elector attempting to vote in a school district election. In the event any person offering to vote is challenged, one (1) of the judges must declare the qualifications of an elector to such person. If the person so challenged then declares himself duly qualified and the challenge is not withdrawn, the elector shall be entitled to vote upon subscribing to the elector's oath.

33-406. Absentee voting. For the purposes of this section the term clerk shall mean the clerk of the board of county commissioners whenever an election involves changing the boundaries of school districts, or the creation of new school districts by consolidation of districts or division of a district. In all other school elections the term clerk shall mean the clerk of the board of trustees of the school district.

In any school election, a qualified school elector who expects to be absent from the district on the day of the election, or who will be unable, because of physical disability or blindness, to go to the polling place, may vote in such election in the manner herein provided.

Any such elector may make written application to the clerk for a ballot or ballots of the kind or kinds to be voted on at such election, which application shall contain the name of the elector, the trustee zone of the district in which he resides, and his present address. The application for an absent elector's ballot shall be filed with the clerk not later than one (1) hour prior to the opening of the polls.

The clerk receiving such application shall, not more than twenty-eight (28) days prior to the day of the election, deliver to said applicant elector personally or by mail to the mailing address given in the application, postage prepaid, a ballot or ballots, one (1) of each kind thereof, to be voted on in the election, and a form of oath of qualification.

The elector shall vote in secret and shall enclose his ballot or ballots in an envelope to be supplied by the clerk and seal the same. The elector shall then place the secrecy envelope in a return envelope, together with the form of oath of qualification executed by him, and address and mail, or deliver, the same to the clerk. The absentee ballot must be received by the clerk, not later than 8:00 p.m. on the day of the election, before such ballot may be counted.

Any elector physically unable to mark his own ballot may receive assistance in marking his ballot from the officer delivering same or an available person of his own choosing. In the event the officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. No election officer or any other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

The written applications shall be kept by the clerk as a part of the records of the election and he shall, on the day of the election and before the polling places are closed, deliver to the proper board of election all such envelopes together with a list, compiled and signed by him, of the electors making application to vote in absentia.

The board of election shall verify all return envelopes delivered to it by the clerk against the names appearing on the said list, open the return envelopes and examine the elector's oath. If these are found to be in order, the ballots shall remain in the secrecy envelopes and be placed in the ballot box in the same manner as though the elector were personally present and voting; and the voter's name shall thereupon be subscribed in any polling book or other record kept at such election.

33-406A. Challenging absentee elector's vote. The vote of any absent elector may be challenged in the same manner as other votes are challenged and the receiving judges shall have power and authority to determine the legality of such ballot. If the challenge be sustained, or if the receiving judges determine that the elector is not a qualified elector, the envelope containing the ballot of such elector shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. Whenever it shall be made to appear to the receiving judges by sufficient proof that any elector who has marked and forwarded his ballot has died, then the envelope containing the ballot of such deceased elector shall not be opened and the judges shall make proper notation on the back of such envelope. If an absent elector's envelope contains more than one (1) marked ballot of any kind, none of such ballots shall be counted and the judges shall make notations on the back of the ballots of the reason therefor. Judges of election shall certify in their returns the number of absent electors' ballots cast and counted and the number of such ballots rejected.

33-407. Return and canvass of elections. In any school election involving the excision and annexation of territory, or the consolidation of school districts, or the division of a school district, the board of county commissioners of the county in which the election is held, or, in the case of a joint school district, the board of county commissioners of the home county of the school district, shall constitute the board of canvassers. In all other school elections, the board of trustees of each school district shall act as the board of canvassers.

Following the close of the polls at the time stated in the notice of election, each board of election shall open the ballot boxes and compute the results in public view. Any ballot or part of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted. In the event of a bond election or any other election requiring more than a simple majority conducted by a school district, any qualified elector casting such ballot or part of a ballot shall be deemed not to have voted at or participated in such bond election and the ballot or part of a ballot shall not be counted in determining the number of qualified electors voting at or participating in such elections. Within not more than three (3) days thereafter each board of election shall make return to the chairman of the board of canvassers. Said return shall include the computation of the results of the election and all ballots cast at the election, both those counted and those rejected.

At its next meeting after receiving all returns from the board or boards of election, the board of trustees or the board of county commissioners, when acting as a board of canvassers shall canvass all returns of the election. The board of canvassers shall examine and make a statement of the total number of votes cast for all candidates or questions that shall have been voted upon at the election. The statement shall set forth the names of the candidates or questions for which the votes have been cast. It shall also include the total number of votes cast for each candidate and/or the total number of affirmative and negative votes cast for any question voted upon at the election. The board of trustees of the school district, when acting as a board of canvassers, shall enter the results of the election as reflected in such a statement in the minutes of the board of trustees.

The board of county commissioners, when acting as a board of canvassers, shall canvass the returns and shall give notice of the result of the election as reflected in such statement to the board of trustees of any school district involved in the election. If the proposals have been approved by the majority or majorities required by law, the board of county commissioners shall thereupon enter its order showing the proposals as having been approved, and shall also give notice of such approval to the board of county commissioners of any other county in which shall lie any part of the territory of any school district affected by the result of the election. The board of county commissioners of each county shall thereupon make appropriate corrections in the legal descriptions of any school district boundaries, within its county whenever the result of the election requires such correction.

All returns of elections, including ballots cast thereat, shall be kept and retained by the clerk of the board of trustees, or by the clerk of the board of county commissioners, as the case may be, for not less than eight (8) months after the date of the election.

33-408. Election contests -- Grounds of contest. The election of any person to a school board of trustees, or an election concerning any proposition submitted to a vote of the people in a school district election may be contested:

1. For malconduct, fraud, or corruption on the part of the judges of election in any polling

place or of any board of canvassers, or any member of either board sufficient to change the result.

2. When the incumbent was not eligible to the office at the time of the election.
3. When the incumbent has been convicted of felony, unless at the time of the election he shall have been restored to civil rights.
4. When the incumbent has given or offered to any elector, or any judge, clerk or canvasser of the election, any bribe or reward in money, property or anything of value for the purpose of procuring his election.
5. When illegal votes have been received or legal votes rejected at the polls sufficient to change the result.
6. For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result.
7. When the incumbent is in default as a collector and custodian of public money or property.
8. For any cause which shows that another person was legally elected.
9. For any cause which shows that the election was not conducted in conformance with the provisions of this chapter.

33-409. Bond election and levy increases -- Time for filing -- Validation of elections and bonds.

a. The provisions of this chapter with respect to the contest of school district elections shall be applicable to bond elections conducted by school districts and to elections conducted by school districts for levy increases as authorized by sections 33-802, 33-803 and 33-804, Idaho Code. Any such contest shall be regarded as one contesting the outcome of the vote on the bond or levy proposition, rather than election to office, and the school district calling the election rather than a person declared to have been elected to office, shall be regarded as the defendant.

b. When the validity of any bond or levy election is contested upon any of the grounds enumerated in section 33-408, Idaho Code, the plaintiff or plaintiffs must, within forty (40) days after the votes are canvassed and the results thereof declared, file in the proper court a verified written complaint setting forth, in addition to the other requirements of this chapter, the following:

1. The name of the party contesting the bond or levy election, and that he is an elector of the school district conducting the bond or levy election.
2. The proposition or propositions voted on at the election which are contested.
3. The particular grounds of such contest.

c. No such election contest shall be maintained and no bond or levy election shall be set aside or held invalid unless a complaint is filed as permitted hereunder within the period prescribed in this section. As to bond or levy elections which have been held prior to the effective date of section 34-2001A, Idaho Code, no such contest shall be maintained wherein it is alleged that the election should be set aside or held on any ground enumerated in section 33-408, Idaho Code, unless such election contest be filed as herein provided within forty (40) days from and after the effective date of section 34-2001A, Idaho Code.

d. All bond elections conducted by school districts prior to the effective date of section 34-2001A, Idaho Code, and all proceedings had in the authorization and issuance of the bonds authorized thereat, are hereby validated, ratified and confirmed and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in the provisions of this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which is being contested at the time this section takes effect, or any election the legality of which is contested within the forty (40) day period from and after the effective date of section 34-2001A, Idaho Code.

33-410. Misconduct of judges. When misconduct complained of is on the part of the judges of election, it shall not be held sufficient to set aside the election, unless the vote of the polling place would change the result as to the office or question for which the election had been held.

33-411. Jurisdiction -- Election contests. The district courts shall hear and determine contests of election of school district trustees and all other school elections concerning any other subject which may by law be submitted to the vote of the people upon any of the grounds enumerated in section 33-408, Idaho Code.

33-412. Who may contest an election. Any school district election may be contested upon any of the grounds enumerated in section 33-408, Idaho Code, by any qualified elector of the school district, school district trustee zone, or territory in and for which the election was held.

33-413. Complaint and security for costs. Except for bond elections and elections for levy increases which shall be governed by the provisions of section 33-409, Idaho Code, the contestants shall file in the proper court within twenty (20) days after the votes are canvassed, a complaint setting forth the name of the contestant, and that he is an elector competent to contest such election, the election contested, the time of the election, and the particular causes of contest, which complaint shall be verified by the affidavit of the contestant, that the causes set forth are true as he verily believes. In all school elections, including bond elections and elections for levy increases, the contestant must also file a bond, with security to be approved by the clerk of the court or the district judge, as the case may be, conditioned to pay all costs in case the election be confirmed, the complaint dismissed, or the prosecution fail.

33-414. Complaint -- Specific allegations. When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, if known, with the location of the polling place where they voted or offered to vote, shall be set forth in the complaint.

33-415. Issuance of summons. Upon the filing of such complaint, summons shall issue against the person whose office is contested, or in the case of any other election, against the school district calling the election, and a copy of the complaint shall in all cases accompany the summons.

33-416. Procedure in general. Procedures including, but not limited to, the taking of testimony and the subpoenaing of witness shall be the same as in other cases in the court where the case is tried as shall the style, form and manner of service of process and papers, and the fees of officers and witnesses. The actual proceedings of the case shall be simulated to those in an action, so far as practicable, but shall be under the control and direction of the courts which shall have all the powers necessary to the right hearing and determination of the matter; to compel the attendance of witnesses, swear them and direct their examination; to punish for contempt in its presence or by disobedience to its lawful mandate; to adjourn from day to day; to make any order concerning immediate costs, and to enforce its orders by attachment. Proceedings shall be governed by the rules of law and evidence applicable to the case.

33-417. Voters to testify as to qualifications. The court may require any person called as a witness, who voted at such election, to answer touching his qualifications as a voter; and if he was not a qualified voter in the election in which he voted, then to answer for whom or as to how he voted; and if the witness answers such questions no part of his testimony in that trial shall be used against him in any criminal action.

33-418. Liability for costs. The contestant and the responding party, whether it be a newly elected official or a school district, are liable to the officers and witnesses for the costs made by them respectively. But if the election be confirmed or the complaint be dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs, and if the judgment be against the responding party or the election be set aside, it shall be against the contestee for costs.

33-419. Form of judgment. The judgment of the court in cases of a contested election shall confirm or annul the election according to the right of the matter or, in case the contest is in relation to the election of a school board trustee, shall declare as elected the person who shall appear to be duly elected.

33-420. Determination of tie vote. In a school district trustee election, if it appears that two (2) or more persons have, or would have had if the legal ballots cast or intended to be cast for them had been counted, the highest and an equal number of votes for the same office, the person to be declared duly elected shall be determined in accordance with the provisions of section 33-503, Idaho Code.

33-421. Election declared void. When a person whose trustee election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void and the judgment in such a case shall provide for a new trustee election to be conducted by the school district.

33-422. Appeal. The party against whom a judgment is rendered in cases of an election contest tried in district court may appeal to the supreme court. However, in the event of a trustee election, if the appellant be in possession of the office, such appeal shall not supersede the execution of the judgment of the court.

33-423. Applicability of penal provisions. The penal provisions of chapter 23, title 18, Idaho Code, with the exception of section 18-2322, Idaho Code, shall apply to school elections conducted pursuant to this chapter.

33-424. Initiating recall proceedings. Whenever any legal voter of the school district in the same trustee zone as the school trustee for whom the recall is being submitted, either individually or on behalf of an organization, desires to demand the recall and discharge of the school trustee, under the provisions of article VI, section 6, of the constitution of the state of Idaho, he shall send or deliver to the clerk of the board a copy of a petition of recall duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition. The clerk of the board shall indicate in writing on the recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the clerk of the board shall immediately inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of certified signatures within sixty (60) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the sixty (60) days allowed shall be declared void in its entirety.

33-428. Filing petitions -- Time limitations. The sponsors of a recall demanded of any school trustee shall stop circulation and file all petitions with the appropriate school board clerk not less than six (6) months before the next regular election in which the school trustee whose recall is petitioned is subject to reelection.

33-429. Petition -- Form. Recall petitions shall be printed on single sheets of paper of good writing quality including, but not limited to, newsprint not less than eight and one-half (8 1/2) inches in width and not less than fourteen (14) inches in length. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly (1) signs more than one (1) of these petitions, (2) signs this petition when he is not a legal voter, or (3) makes herein any false statement, may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the person whose recall is petitioned for) to the (here insert the name and title of the clerk of the school board with whom the charge is filed).

We, the undersigned citizens and legal voters of (the school district's official name and school trustee zone number), respectfully direct that a special election be called for the following reasons: (setting out the reasons in a recall statement of not more than two hundred (200) words); each of us for himself says: I have personally signed this petition; I am a legal voter of the state of Idaho in (the school district's official name and school trustee zone number) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho)
) ss.
County of)

I, , swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature)
Post Office address

Subscribed and sworn to before me this day of , 19 .
(Notary Seal)

Notary Public
Residing at

33-430. Petition -- Size. Each recall petition at the time of circulating, signing and filing with the clerk of the board with whom it is to be filed, shall consist of not more than five (5) sheets with numbered lines for not more than twenty (20) signatures on each sheet, with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the original statement of the charges against the school trustee referred to therein, printed on sheets of paper of like size and quality as the petition, firmly fastened together.

33-431. Number of signatures required. When the person, demanding the recall of a school trustee has secured sufficient signatures upon the recall petition he may submit the same to the clerk of the school board for filing in his office. The number of signatures required shall be equal to twenty percent (20%) of the total number of votes cast for all candidates at the last election during which the school trustee, whose recall is demanded, was elected. If the school trustee whose recall is demanded was appointed, the number of signatures required shall be equal to twenty percent (20%) of the total number of votes cast for all candidates at the last election during which his predecessor was elected.

33-432. Canvassing petition for sufficiency of signatures -- Notice. Upon the filing of a recall petition in his office, the clerk of the school board with whom the charge was filed shall stamp on each petition the date of filing, and shall notify the person filing them and the school trustee whose recall is demanded of the date when the petitions will be canvassed, which date shall be not less than five (5) nor more than ten (10) days from the date of its filing.

33-433. Verification and canvass of signatures -- Procedure.

(1) Upon the filing of a recall petition, the clerk of the school board shall proceed to verify and canvass the names of legal voters on the petition.

(2) The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed recall so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the magistrate court. The clerk of the school board may limit the number of observers if in his opinion a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides, but in no case shall fewer than two (2) observers on each side be allowed. If the clerk of the school board finds the same name signed to more than one (1) petition, he shall reject all but one (1) such valid signature.

33-434. Fixing date for recall election -- Notice. If, at the conclusion of the verification and canvass, it is found that a petition for recall bears the required number of signatures of certified legal voters, the clerk of the school board shall promptly certify the petitions as sufficient and fix a date for the special election to determine whether or not the school trustee charged shall be recalled and discharged from office. The special election shall be held not less than fourteen (14) days nor more than forty-five (45) days from the certification. Notice shall be given in the manner as required by law for all other school elections as provided in section 33-402, Idaho Code.

33-435. Response to recall petition statement. When a date for a special election is set, the clerk of the school board shall serve a notice of the date of the election to the school trustee whose recall is demanded and the person demanding recall. Such notice may be made only in person or by certified mail, return receipt requested. After having been served a notice of the date of the election, the school trustee whose recall is demanded may submit to the clerk of the school board a response, not to exceed two hundred (200) words in length, to the recall statement. Such response shall be submitted by the seventh consecutive day after service of the notice. The clerk of the school board shall promptly send a copy of the response to the person who filed the petition.

33-436. Destruction of insufficient recall petition. If it is found that the recall petition does not contain the requisite number of signatures of certified legal voters, the clerk of the school board shall so notify the person filing the petition, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition void in its entirety.

33-437. Invalid names -- Record of. The clerk of the school board shall keep a record of all names appearing thereon which are not certified to be legal residents of the trustee zone, and of all names appearing more than once thereon, and he may report the same to the prosecuting attorneys of the respective counties where such names appear to have been signed, to the end that prosecutions may be had for such violation of the provisions of this chapter.

33-438. Conduct of election -- Form of ballot. The special election to be called for the recall of school trustees shall be conducted in the same manner as regular school trustee elections are conducted. The clerk of the school board shall provide for the holding of recall elections and the necessary places and officers, ballot boxes, ballots, poll books, voting machines, supplies, and returns as are required by law for holding regular school trustee elections. The ballots at any recall election shall contain a full true, and correct copy of the recall statement, the school trustee's response to the recall statement if such has been filed, and shall be so arranged that any voter can, by making one cross (X), express his desire to have the school trustee charged recalled from his office, or retained therein. The following form shall substantially comply with the provisions of this section:

RECALL BALLOT

Here insert the recall statement.	Here insert the school trustee's response to the recall statement.

FOR the recall of (here insert the name of the school trustee)
AGAINST the recall (here insert the name of the school trustee)

33-439. Ascertaining the result -- When recall effective. The votes on a recall election shall be counted, canvassed, and the results certified in the manner provided by law for counting, canvassing, and certifying the results of an election for school trustee.

To recall any school trustee, a majority of the votes cast at the recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must at least equal the number of votes cast in favor of such trustee as a candidate at the last election. A vacancy in the office shall exist when the board of canvassers certifies the results of the election in favor of the recall vote.

33-440. Enforcement provisions -- Mandamus -- Appeals. The magistrate court of the county in which the school trustee subject to recall resides has original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

33-441. Violations by signers. Every person who signs a recall petition with any other than his true name is guilty of a felony. Every person who knowingly (1) signs more than one (1) petition for the same recall, (2) signs a recall petition when he is not a legal voter, or (3) makes a false statement as to his residence on any recall petition is guilty of a misdemeanor.

33-442. Violations -- Corrupt practices. (1) Every person is guilty of a misdemeanor, who:

(a) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purpose or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;

(b) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing the petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;

(c) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;

(d) Makes any false affidavit concerning any recall petition or the signatures appended thereto;

(e) Offers, proposes or threatens for any pecuniary reward or consideration:

(i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;

(ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;

(iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

(2) A public officer is guilty of a felony, who knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

33-443. Limitation of ballot access for multi-term incumbents.

(1) A person shall not be eligible to have his or her name placed upon the school election ballot for the office of school district trustee which they have previously held if they have served, will serve or but for resignation would have served, in that same office by the end of their current term of office, representing any zone of the district, during six (6) or more of the previous eleven (11) years.

(2) Nothing in the section shall be construed as prohibiting any qualified voter of the school district from casting a ballot for any person by writing the name of that person on any ballot, or as prohibiting such a properly marked ballot from being counted or tabulated, nor shall any provision of this section be construed as preventing or prohibiting any person from standing or campaigning for any elective office by means of a "write-in" campaign.

TITLE 33, CHAPTER 6
SCHOOL PROPERTY

33-601. Real and personal property -- Acquisition, use or disposal of same. The board of trustees of each school district shall have the following powers and duties:

1. To rent to or from others, school buildings or other property used, or to be used, for school purposes.

2. To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, no such contract shall be executed which entails the expenditure of fifteen thousand dollars ($15,000) or more without notice first being given by publishing twice in the manner required by subsections g. and h. of section 33-402, Idaho Code, unless in cooperation with the division of purchasing or cooperative agency established pursuant to chapter 23, title 67, and/or sections 33-315 through 33-318, Idaho Code. The board of trustees may let the contract to the lowest responsible bidder, or reject any bid, or reject all bids and publish notice for bids, as before. If, thereafter, no satisfactory bid is received, the board may proceed under its own direction, subject to the approval of the state board of education.

3. To designate and purchase any real property necessary for school purposes or in the operation of the district, the provisions of subsection 2. of this section notwithstanding, or remove any building, or dispose of any real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

4. (a) To convey, except as provided by (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection 6. of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections g. and h. of section 33-402, Idaho Code, except that when the appraised value of the property is less than five hundred dollars ($500), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without additional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property. In no case shall any real property of the school district be sold for less than its appraisal.

The board of trustees may sell personal property, with an estimated value of less than five hundred dollars ($500), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property.

(b) Real and personal property may be exchanged hereunder for other property if the consideration received by said school district shall be deemed adequate by the board of trustees, provided, however, that aside from the provisions of this paragraph hereof, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any other school district, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made.

5. To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

6. To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

7. To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

8. To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho

Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

9. If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

33-601A. Leasing of goods, equipment, buses and portable classrooms. No provision of chapter 6, title 33, Idaho Code, shall be construed to prevent a board of trustees from entering into lease-purchase agreements for goods, equipment, buses or portable classrooms, provided the agreement is in writing and meets all of the following requirements:

(1) The annual lease payments shall reflect reasonable compensation for use;

(2) No penalty shall be imposed on the school district for proper cancellation of the lease;

(3) The right to exercise the option to purchase shall be at the sole discretion of the school district; and

(4) The cost of purchase shall not exceed the reasonable value of the goods, equipment, buses or portable classrooms as of the time the option to purchase is exercised.

For the purposes of this section, "portable classroom" means a facility which is not so related to particular real estate that an interest in it arises under real estate law.

TITLE 33, CHAPTER 8 BUDGET AND TAX LEVY

33-804. School plant facilities reserve fund levy. In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section 33-901, Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, in each year for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Any bonded indebtedness incurred in accordance with the provisions of section 33-1103, Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

TITLE 33, CHAPTER 9 SCHOOL FUNDS

33-901. School plant facilities reserve fund. The board of trustees of any school district may create and establish a school plant facilities reserve fund by resolution adopted at any regular or special meeting of the board. All moneys for said fund accruing from taxes levied under section 33-804, Idaho Code, together with interest accruing from the investment of any moneys in the fund and any moneys allowed for depreciation of school plant facilities as are appropriated from the general fund of the district, shall be credited by the treasurer to the school plant facilities reserve fund.

Disbursements from said fund may be made from time to time as the board of trustees may determine, for purposes authorized in section 33-1102, Idaho Code, and for lease and lease purchase agreements for such purposes and to repay loans from commercial lending institutions extended to pay for the construction of school plant facilities, but no expenditure for remodeling existing buildings shall be authorized and made unless the estimated cost thereof shall exceed five thousand dollars ($5,000). Lease purchase agreements shall not extend beyond the period designated for any existing school plant facilities reserve fund levy. Expenditures may also be made from this fund for participation by the school district in any local improvement district in which the school district may be situate, but any such participation shall not create a lien upon any of the property owned by the school district.

Should any school district having a balance in its school plant facilities reserve fund be consolidated with one or more school districts to form a new school district, the moneys in such fund shall be used to retire any bonds issued by it and outstanding at the time of the consolidation. If there are no bonds outstanding, any balance in its school plant facilities reserve fund shall accrue to the new district to be added to or to create and establish a school plant facilities reserve fund.

Should any school district having a balance in its school plant facilities reserve fund be divided so as to create two (2) or more new districts the said fund may be used to retire any bonds issued by it and outstanding at the time of the division, or the said fund may be divided among the new school districts, as may be approved by the electors at the time of the division. If the fund is divided among the new districts, a school plant facilities reserve fund is thereby created and established for each district.

The board of trustees of any school district having a school plant facilities reserve fund created and established under any of the provisions of this section, may discontinue the same by resolution adopted at any regular meeting of the board. Upon such discontinuance, any balance in the fund shall be used to retire any outstanding bonds, if any; otherwise, the balance may be transferred to the general fund of the district.

Moneys in the school plant facilities reserve fund being held for future use may be invested in the manner of section 57-127, Idaho Code.

A detailed financial report of the operations in and the condition of the school plant facilities reserve fund shall be included in the annual report of each district. Forms for such reporting shall be provided by the state board of education. Such report shall be published as provided by law for the publication of annual reports of school districts.

TITLE 33, CHAPTER 11 SCHOOL BONDS

33-1103. Definitions -- Bonds -- Limitation on amount -- Elections to authorize issuance. For the purposes of this chapter the following definitions shall have the meanings specified: "Market value for assessment purposes" means the amount of the last preceding equalized assessment of all taxable property within the school district on the tax rolls completed and available as of the date of approval by the electorate in the school bond election. "Aggregate outstanding indebtedness" means the total sum of unredeemed outstanding bonds, minus all moneys in the bond interest and redemption fund or funds accumulated for the redemption of such outstanding bonds, and minus the sum of all taxes levied for the redemption of such bonds, with the exception of that portion of such tax levies required for the payment of interest on bonds, which taxes remain uncollected. "Issue," "issued," or "issuance" mean a formal delivery of bonds to any purchaser thereof and payment therefor to the school district.

The board of trustees of any school district, upon approval of a majority thereof, may submit to the qualified school district electors of the district the question as to whether the board shall be empowered to issue negotiable coupon bonds of the district in an amount and for a period of time to be named in the notice of election.

An elementary school district which employs not less than six (6) teachers, or a school district operating an elementary school or schools, and a secondary school or schools, or issuing bonds for the acquisition of a secondary school or schools, may issue bonds in an amount not to exceed five per centum (5%) of the market value for assessment purposes thereof, less the aggregate outstanding indebtedness; and no other school district shall issue bonds in an amount to exceed at any time two per centum (2%) of the market value for assessment purposes thereof less the aggregate outstanding indebtedness. The market value for assessment purposes, the aggregate outstanding indebtedness and the unexhausted debt-incurring power of the district shall each be determined as of the date of approval by the electors in the school bond election.

Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed, and the qualifications of electors voting or offering to vote shall be, as provided in sections 33-401--33-406, Idaho Code.

The question shall be approved only if the percentage of votes cast at such election were cast in favor thereof is that which now, or may hereafter be, set by the Constitution of the State of Idaho. Upon such approval of the issuance of bonds, the same may be issued at any time within two (2) years from the date of such election.

33-1111. Sale of bonds. The board of trustees shall give notice of its intent to sell a bond issue.

The notice shall be published once in a newspaper published in this state, at least one (1) week prior to the day bids are opened. Said notice shall describe the issue of bonds; shall state that the board of trustees will receive sealed bids until a specified day and hour; and that said bids will be opened at a regular or special meeting of the board at a time and place to be named in the notice. Said notice may require such deposits of forfeits as the board may deem necessary.

At the meeting held at the time and place named in the notice, the board of trustees shall open the bids, and may sell the same to whomever shall make the bid most advantageous to the school district, and the deposits of the unsuccessful bidders shall thereupon be returned to them. Should the successful bidder fail or refuse to tender payment of the amount required for the purchase of the issue within ten (10) days after tender to him of the executed bonds and a certified copy of the bond proceedings, his deposit shall be forfeited; and the board may in its judgment accept the bid next most advantageous, or readvertise the issue as before.

The board of trustees may reject any or all bids, and sell the bonds at private sale when this is found to be in the best interest of the district.

No school bond shall at any time be sold at less than its par value.

TITLE 33, CHAPTER 25
STATE LIBRARY

33-2501. State library established. The state of Idaho recognizes that libraries are uniquely suited to making the benefits of information and information technologies available to the citizens of the state of Idaho. Therefore, the Idaho state library is hereby established.

33-2502. State library board -- Membership -- Officers -- Meetings -- Compensation. The state library shall be governed by the state library board. The state library board shall be maintained within the office of the state board of education and shall consist of the state superintendent of public instruction or the superintendent's designee, as ex officio member, and five (5) members appointed by the state board of education. On the first Monday of July, 1998, the state board of education shall appoint one (1) member for a term of three (3) years, one (1) member for a term of four (4) years, and one (1) member for a term of five (5) years. Thereafter, the state board of education shall annually, on the first Monday of July, appoint one (1) member to the state library board to serve for a term of five (5) years. The state library board shall annually elect a chairman, vice chairman, secretary and other officers as it deems reasonably necessary. The state library board shall meet at least twice each year. Members shall be compensated as provided by section 59-509(n), Idaho Code.

33-2503. State library board -- Powers and duties. The state library board is designated as the policymaking body for the Idaho state library. The state library board shall have the following powers and duties:

(1) To foster and promote library service in the state of Idaho.

(2) To make policies and rules governing the use of the state library and its materials.

(3) To employ a qualified librarian to serve as the chief executive officer of the state library. The librarian shall be a graduate of an accredited library school.

(4) To receive donations of money, books, and other real and personal property, for the benefit of the Idaho state library. Title to donations in any form shall vest in the state of Idaho. Donations shall be held and controlled by the state library board.

(5) To promote and facilitate the establishment, use, and cooperation of libraries throughout the state so all Idahoans have access to the resources of those libraries.

(6) To provide services to state government employees and the public as the Idaho state government information center.

(7) To support or deliver statewide library programs and services.

(8) To accept, receive, administer and expend, in accordance with the terms thereof, any moneys, materials or other aid granted, appropriated, or made available to Idaho by the United States, or any of its agencies, or by any other public or private source, for library purposes. The board is authorized to file any accounts required with reference to receiving and administering all such moneys, materials and other aid.

(9) To assist in the establishment of financing of a statewide program of cooperative library services, which may be in cooperation with any taxing unit, or public or private agency.

(10) To contract with other libraries or agencies, within or without the state of Idaho, to

render library services to people of the state of Idaho. The state library board shall have authority to reasonably compensate other library units or agencies for the cost of the services provided by the other library unit or agency under any such contract. Such contracts and compensation shall be exempt from the provisions of chapter 57, title 67, Idaho Code.

(11) The board shall have authority to promulgate all rules necessary for the proper conduct of its business.

33-2504. State library board -- Accounts -- Certification -- Payment of claims. The secretary of the state library board shall keep a full report of the proceedings of the board, and accurate accounts of expenses incurred by the board in carrying out the provisions of this chapter. The chairman of the board may issue certificates, countersigned by the secretary, for all claims against the board required to be examined pursuant to chapter 20, title 67, Idaho Code. The claims, when approved by the board of examiners, shall be paid by warrants drawn upon the fund in the state treasury provided for that purpose.

33-2505. State librarian -- Depository for public documents -- Distribution. It shall be the duty of the head of every agency, board, bureau, commission or department of the state of Idaho, including all state supported institutions of higher education in Idaho, to deposit with the librarian of the Idaho state library twenty (20) copies of all documents, reports, surveys, monographs, serial publications, compilations, pamphlets, bulletins, leaflets, circulars, maps, charts or broadsides of a public nature which it produces for public distribution. The deposit of information with the state librarian is intended to allow the information to be used and distributed to academic, regional, public, and special libraries in Idaho, the Library of Congress, and to others within the discretion of the state librarian.

33-2506. Library services improvement fund -- Established.

(1) Policy. The state of Idaho recognizes its responsibility to provide library services to people in all areas of the state. The state acknowledges that the ability of each Idahoan to access information has a critical impact on the state's economic development, educational success, provision for an informed electorate, and overall quality of life. Realizing that libraries of all types and in all parts of the state must be able to interact and cooperate in order to respond to these informational needs, the state of Idaho hereby creates and establishes in the state treasury the library services improvement fund.

(2) Purpose. The purpose of the library services improvement fund is to further the development of library services for all the people of Idaho. Moneys in the library services improvement fund are appropriated to and may be expended by the state library board at any time for the purposes provided in this section.

(3) Appropriations and revenues. The library services improvement fund shall have paid into it such appropriations as may be provided or other moneys and donations described in section 33-2503, Idaho Code.

(4) Payments.

(a) All payments from the library services improvement fund shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the state library. Pending payments out of the library services improvement fund, the moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to idle moneys in the state treasury. Interest earned on the investments shall be returned to the library services improvement fund.

(b) No library entity is automatically entitled to receive any payments from the library services improvement fund. The state library board shall establish the criteria upon which actual need is to be determined in accordance with the purposes set forth in this section.

(c) Payments from the library services improvement fund may be used only for the purposes approved by the state library board. Funding decisions shall be solely within the discretion of the state library board.

TITLE 33, CHAPTER 26
PUBLIC LIBRARIES

33-2601. Policy. It is hereby declared to be the policy of the state of Idaho, as a part of the provisions for public education, to promote the establishment and development of free library service for all the people in Idaho. It is the purpose of this act to assure an informed electorate by enabling the provision of free local library service, in the present and in the future, to children in their formative years and to adults for their continuing education. To carry out the purpose of this act, an independent, nonpartisan board shall govern the library.

Every library established in this chapter shall be forever free for the use of the residents of the city, always subject to such reasonable rules and regulations as the library board may find necessary to adopt.

33-2602. Definitions. Unless a different meaning plainly is required in this chapter:

(1) "Nonpartisan" means not controlled or influenced by any single political party.

(2) "Board" means the group of trustees who manage the library.

(3) "Mayor" means the elected chief municipal officer of a city.

(4) "City manager" means a person appointed as chief municipal administrator by a city council.

(5) "City council" means the legislative body of a city.

33-2603. Cities may establish tax supported libraries. The city council of every city shall have power to establish a public library, and for such purpose may annually levy and cause to be collected a tax up to but not exceeding one-tenth percent (.10%) of market value for assessment purposes or fund a library out of allocations from the city's general fund. All such moneys shall be kept by the city treasurer separate and apart from other moneys of the city and be used exclusively for library purposes, provided that every city shall have power to contract for specified library service from an existing library, or become part of an existing library district, following the procedure outlined in section 33-2709, Idaho Code.

33-2604. Board of trustees -- Appointment -- Term of office -- Compensation. For the government of such library there shall be a board of five (5) library trustees appointed by the mayor and council pursuant to section 50-210, Idaho Code, from among city residents. If the city government is organized pursuant to sections 50-801 through 50-813, Idaho Code, the city manager and the council shall appoint the board of trustees.

Appointment to the board shall be made solely upon consideration of the ability of such appointees to serve the interests of the people, without regard to sex, age, race, nationality, religion, disability or political affiliation. A member of the city council shall not be one (1) of the five (5) appointed trustees of the library board, but each year the council shall appoint one (1) of its members to be a liaison to the board, without voting rights.

The initial appointment of trustees shall be for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Subsequent appointments shall be made for five (5) years from the date of appointment, and until their successors are appointed.

Members of the board shall serve without salary but may receive their actual and necessary budgeted expenses while engaged in authorized business of the library.

33-2605. Board of trustees -- Vacancies -- Removal. The board shall report all vacancies to the council within five (5) working days. All such appointments shall be made in the same manner as appointments are originally made. Appointments to complete an unexpired term shall be for the remainder of the term only.

Any trustee may be removed by the city council by the unanimous vote of all of its members.

33-2606. Board of trustees -- Meetings. The board of trustees shall meet at least once in each quarter unless required by city ordinance to meet more frequently. One (1) of the meetings shall be designated as the annual meeting. The purposes of the annual meeting are to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. Special meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) voting members, but a smaller number may adjourn. All library board meetings are to be held pursuant to the open meeting law, sections 67-2340 through 67-2344, Idaho Code.

33-2607. Powers and duties of trustees. In addition to the powers elsewhere contained in this chapter and notwithstanding the provisions of title 50, Idaho Code, the board of trustees of each city library shall have the following powers and duties:

(1) To establish bylaws for its own governance;

(2) To establish policies and rules of use for the governance of the library or libraries under its control; to exclude from the use of the library any and all persons who violate such rules;

(3) To establish, locate, maintain and have custody of libraries to serve the city, and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for library service;

(4) With the approval of the city:

(a) To acquire real property by purchase, gift, devise, lease or otherwise;

(b) To own and hold real and personal property and to construct buildings for the use and purposes of the library;

(c) To sell, exchange or otherwise dispose of real or personal property when no longer required by the library; and

(d) To insure the real and personal property of the library;

(5) To prepare and adopt a budget for review and approval by the city council;

(6) To control the expenditures of money budgeted for the library;

(7) To accept or decline gifts of money or personal property, in accordance with library policy, and under such terms as may be a condition of the gift;

(8) To hire, supervise and evaluate the library director;

(9) To establish policies for the purchase and distribution of library materials;

(10) To attend all meetings of the board of trustees;

(11) To maintain legal records of all board business;

(12) To exercise such other powers, not inconsistent with law, necessary for the orderly and efficient management of the library.

33-2608. Library director -- Duties -- Other employees. The board of trustees of each city library shall appoint the library director, who shall serve at the pleasure of the board. The library director shall advise the board, implement policy set by the board, supervise all library staff and shall acquire library materials, equipment and supplies. The library director shall attend all board meetings but shall not vote.

With the recommendation of the library director, the board shall hire other employees as may be necessary for the operation of the library in accordance with city policies and procedures. These employees shall be employees of the city and subject to the city's personnel policies and classifications unless otherwise provided by city ordinance.

33-2609. Annual appropriations -- Control of expenditures. The board shall prepare and adopt an annual budget, stating anticipated revenues and expenditures, indicating what support and maintenance of the library will be required for review and approval by the city council for the ensuing year.

All funds for the library shall be in the custody of the city treasurer unless otherwise provided by city ordinance, and shall be used only for library purposes. The board shall have control of library expenditures. Money shall be paid for library purposes, only upon properly authenticated vouchers of the board of trustees. The board shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated for library purposes. The board may hold a separate checking account to be used to pay petty expenses of the library. This account shall be audited along with other library funds.

33-2610. Donations. Donations or gifts for the benefit of the library shall be budgeted along with other library accounts and shall be used only for library purposes. Money or other funds which are donated or given to the library may be expended by the board of trustees only in accordance with the city budget process.

33-2611. Reports of trustees. The board of trustees shall annually, not later than the first day of January, file with the state library board a report of the operations of the library for the fiscal year just ended. The report shall be of such form and contain such information as the state library board may require, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported. The board shall also report to the city council and mayor as required in section 50-210, Idaho Code.

33-2612. Regional library systems -- Purpose -- Boundaries. It is the purpose of this act to provide a method by which the library boards which govern Idaho's libraries, now or hereafter established in accordance with the Idaho Code, may contract to form regional library systems, in order to provide improved library and information services for residents of a multi-county region. The boundaries for library regions in Idaho shall be established by the Idaho state library board.

33-2613. Definitions. As used in this act, unless the context otherwise requires:

(a) "Library board" means the five (5) citizens appointed, or elected, to govern a public library, a school community library, or a library district, in accordance with chapters 26 and 27, title 33, Idaho Code.

(b) "Participating board" or "participating library" means a board or library or district which is cooperating and participating in a regional library system.

(c) "Region" means that geographic area, with boundaries established by the state library board, wherein library units are encouraged to work together.

(d) "Regional system" means two (2) or more library boards formally contracting a system approved by the state library board, officially designated as a regional library system under this act, and therein working together in specific efforts to extend and improve library services to their resident constituents.

(e) "System board" means the governing board comprised of representatives of library boards in a regional system, and which is authorized to direct and plan library service for a regional system to the extent and in the manner provided by this act.

33-2614. Petition for establishment. Any two (2) or more library boards may petition the state library board for the establishment of a regional system. Such petition shall be prepared in cooperation with the state librarian, on forms provided by the state library, and shall include but shall not be limited to the following information:

(a) A statement of purpose and an outline of the proposed program of the regional system.

(b) A list of the participating libraries, with a listing of the current tax levy and budget of each such participant; the names and addresses of the members of each library board, and a letter or resolution from each such board regarding participation in the regional system.

(c) A list of the counties in the geographic region as a whole, the number of persons who are within taxing districts supporting existing libraries, and the number of persons outside such districts but within a county in the region, and thus potentially eligible for service from the regional system being established.

(d) Proposed number of persons to be on the initial system board of directors.

(e) Proposed headquarters for the regional system, accompanied by a copy of a resolution by the governing authority for that library approving its designation as headquarters and, if a member of the staff of the headquarters is to be the administrator of the system, including approval of such designation.

The state library board shall consider any petition presented to it as provided in this act, and if it approves such petition it shall adopt a resolution officially designating such particular regional library system, describing the territory thereof, and designating the headquarters and the initial number of directors for the system board.

33-2615. System board of directors. Each regional system shall be governed by a board of directors, to be selected by and from the governing boards of the participating libraries.

Initially, as the system is formed, each participating library shall be entitled to one (1) representative on the system board, and those libraries legally serving a population base of more than ten thousand (10,000) shall also be entitled to a second representative.

Within two (2) weeks after receiving notice of approval of a petition for establishment, as provided for under this act, the board of each participating library shall select its representative or representatives, and certify the names and addresses of such representatives to the state librarian.

As additional libraries, now or hereafter established, petition to join the system, the board shall not exceed twenty-five (25) in number. When the board members total twenty-five (25), or earlier with the unanimous agreement of the participating boards, the system board shall develop a plan for equitable rotation of trustees, while retaining representation from a library in each county. The designated headquarters for the system shall always have representation on the board.

At their first meeting the members of the system board shall divide themselves by lot into terms of one (1) to five (5) years. Thereafter, all vacancies shall be filled in the same manner as the original appointments, and appointments to complete an unexpired term shall be for the residue of the term only.

No member of any system board shall serve on the system board for more than five (5) consecutive years, and in no event shall service on the system board exceed the term of office of the incumbent on the governing board of the participating library which he represents.

The system board shall annually elect from its membership a chairman and such other officers as it may deem necessary to conduct the affairs of the system.

Members of the system board may receive from the regional system their actual and necessary expenses while engaged in business of said system.

33-2616. Powers and duties of the system board. The system board shall serve as a liaison agency between the participating libraries and their governing bodies and library boards. The system board shall make such bylaws, rules and regulations as may be necessary for its own government and that of the regional system, none of which shall deprive any participating library board of any of its powers or property.

The system board shall have the following powers and responsibilities, all of which relate to the functioning of the regional system and the management and control of its funds and property;

(a) To develop a long range plan of service for the regional system, and annually to submit to the state library board any changes in said long range plan, and a detailed plan of proposed system development and service for the following year.

(b) To provide improved library service for residents of the regional system, in cooperation with participating libraries, and to this end to purchase books and other library materials, supplies and equipment, for the system services, and to employ such personnel as the system board finds necessary.

(c) To set the administrator's hours and rate of compensation for regional system duties, and to delegate such administrative powers as the board deems in the best interest of the system.

(d) To enter into contracts to receive service from or to give service to other libraries, or agencies, within the state or interstate, and to file copies of such contracts with the state library board.

(e) To be a public corporation, as is provided for library districts, and to contract in the name of the "Board of directors of the .... regional library system, Idaho" and in that name to sue and be sued and to take any action authorized by law.

(f) To acquire by purchase, lease, or otherwise, and to own and hold real and personal property and to construct buildings for the use of the regional system, and to sell, exchange or otherwise dispose of property real or personal when no longer required by the system, and to insure the real and personal property of the system.

(g) To have control of the expenditure of all funds of the regional system, to accept by gift or donation any funds and real or personal property under such terms as may be a condition of the gift.

(h) To exercise such other powers, not inconsistent with law, necessary for the effective use and management of the regional system.

33-2617. Finance of regional systems -- Budgets -- Participating and nonparticipating units. Each regional system may be financed by any combination of available funds, federal, state, local, public and/or private. Counties, cities and library districts are hereby authorized and empowered to join in the creation, development, operation and maintenance of regional systems, and to appropriate and allocate funds for the support of such systems. All funds collected or contributed for the support of each regional system shall be controlled and administered under the direction of the system board, following procedures outlined in the library district statutes, and as directed by the state library board.

(a) Participating Units. Participating boards shall continue to control the funds appropriated or contributed for the support of the participating libraries, but may expend all or any part thereof for library services to be furnished by the regional system. Each participating board shall prepare its own annual budget as required by the Idaho Code, and said budget may include anticipated revenues or expenditures for regional system services. Tax levies made pursuant to each such budget shall be certified as provided by law.

(b) System Budget. Each system board shall prepare a preliminary budget for the system for the coming year, and shall by the last day of April forward said budget to the boards of participating libraries. This budget shall be published, and a hearing held thereon before the last day of May.

(c) Non-Participating Areas. The system board shall also prepare a list of those areas within each county of the library region wherein public libraries, library districts, school-community libraries, or association libraries are not maintained as authorized in the Idaho Code. Such lists shall be forwarded to the state library board and to the board of county commissioners of each affected county. The system board shall include in its preliminary budget an estimate of the kinds of services which the system could provide to those areas without established libraries, and the cost of such services, and shall forward this to the appropriate boards of county commissioners.

33-2618. Addition to or withdrawal from a regional system.

(1) After the establishment of a regional system as provided in this act, the board of any

library which is not a part of the system, and which is within the boundaries of a library region as established by the Idaho state library board, may petition the state library board for addition to the regional system.

Petitions for addition shall be prepared and processed as provided in this act for initial petitions, except that prior approval in writing shall be obtained by the petitioning board from the regional system board, and shall be attached to the petition when it is submitted to the state library board.

(2) After the establishment of a regional system as provided in this act, a participating library board may petition the state library board for withdrawal from the system. A petition for withdrawal must be received by the state library board at least sixty (60) days before the end of the fiscal year of the system.

All assets of a participating library remain the property of that library, and if a unit withdraws from a system the disposal of the joint assets of the system shall be determined by the state library board, who shall give consideration to such items as the amount of funds raised from each unit of the system, and the ability of the units to make further use of such property or equipment for library purposes.

33-2619. Administration of act by state library board. The Idaho state library board shall administer the provisions of this act, and shall adopt such rules and regulations as are necessary for approval of regional system petitions, review and amendment of regional system plans and contracts, and such other matters as the state library board may deem advisable.

33-2620. Failure to return borrowed material. Any person who borrows from a publicly funded lending facility any book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article belonging to, or in the care of, the facility, under any agreement to return the same within a specified time, and thereafter fails to return the book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article, shall be given written notice, which shall bear upon its face a copy of this statute, mailed by a registered or certified letter with return receipt, or delivered in person to such person at his last known address, to return the borrowed article within fifteen (15) days; and in the event that the person shall thereafter wilfully and knowingly fail to return the borrowed article within thirty (30) days, or shall fail to reimburse the facility for the value of the borrowed article plus overdue fines and costs incurred, the person shall be guilty of a petit theft and punishable as provided in chapter 24, title 18, Idaho Code. For purposes of this section, a "publicly funded lending facility" includes any library, gallery, museum, collection or exhibit supported by public funds.

TITLE 33, CHAPTER 27
PUBLIC LIBRARY DISTRICTS

33-2701. Purpose and policy. It is hereby declared to be the policy of the state of Idaho, as a part of the provisions for public education, to promote the establishment and development of public library service for all the people of Idaho. It is the purpose of this act to make more adequate provision for an informed electorate by integrating, extending, and adding to existing library services and resources so that public library service may be available to children in their formative years and to adults for their continuing education.

33-2702. Definitions. As used in this chapter:

(1) "Home county" means the county where the designated district headquarters is located when a public library district's boundaries include territory located in more than one (1) county.

(2) "Library director" means the employee of a public library district who is charged with the administration and management of library services for that district.

(3) "Public library district trustee" means a qualified elector living within the boundaries of a public library district who is elected or, appointed temporarily, to fulfill the duties described in this chapter related to the governance of a public library district.

(4) "Qualified elector" means any person voting, or offering to vote, at an election to create a library district, add territory thereto, or elect trustees thereof, must be, at the time of the election, a resident of the area involved for thirty (30) days prior to the date of the election, registered and an elector within the meaning of section 2, article VI, of the Constitution of the state of Idaho.

33-2703. Library districts -- Territory -- Establishment -- Limitations. A library district may be established by vote of the qualified electors of the proposed district in an election called and held as provided by this chapter, with the following limitations:

(1) The district may include incorporated or unincorporated territory or both in one (1) or more counties and may include any of the area thereof except as may be excluded by this section, and as finally fixed and determined by the board of county commissioners.

(2) The territory of the district shall be continuous, and no territory of an incorporated municipality shall be divided.

(3) In the initial establishment of a library district the following may be excluded:

(a) A municipality which is already providing library service as established according to section 33-2603, Idaho Code; or

(b) A library district which is already providing library service as established in accordance with the provisions of this chapter.

(4) If, subsequent to the establishment of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, this area shall cease to be a part of the library district and the city council of the municipality shall so notify the board of county commissioners.

(5) Any proposed library district shall have a population of more than one thousand five hundred (1,500) and an annual budget of not less than twenty-five thousand dollars ($25,000) from

ad valorem revenues. Any proposed library district not meeting the above criteria may apply to the state library board for an exemption.

33-2704. Petition -- Verification -- Notice and hearing.

(1) A petition or petitions, signed by fifty (50) or more qualified electors residing in the proposed library district, giving the name of the proposed district, describing the boundaries thereof including a map prepared in a draftsmanlike manner, and praying for the establishment of the territory therein described as a public library district, shall be filed with the clerk or clerks of the boards of county commissioners of the counties in which the proposed district is situated.

The petition or petitions shall be verified by at least one (1) qualified elector, which verification shall state that the affiant knows that all of the parties whose names are signed to the petition are qualified electors of the proposed district, and that their signatures to the petition were made in his presence. The verification may be made before any notary public.

(2) When the petition or petitions are presented to the board of county commissioners and filed in the office of the clerk of the board, the board shall set the time for a hearing, which time shall be not less than three (3) nor more than six (6) weeks from the date of the presentation and filing of the petition. Notice of the time of hearing shall be published by the board at least once a week for two (2) weeks prior to the time set for the hearing, in a newspaper of general circulation within the county in which the proposed district is situated.

(3) The notice shall state that a library district is proposed to be established, giving the proposed boundaries and name thereof, and that any resident elector within the proposed boundaries of the proposed district may appear and be heard in regard to:

(a) The form of the petition;
(b) The genuineness of the signatures;
(c) The legality of the proceedings; and
(d) Any other matters in regard to the creation of the library district.

(4) Concurrently with the notice of hearing, the board of county commissioners shall notify, in writing, the governing body of any tax supported library within the boundaries of the proposed library district. If any governing body decides that it is not in the best interest of library services to be included within the proposed library district, they shall present a resolution stating this to the county commissioners, not less than one (1) week prior to the date of hearing.

(5) No later than ten (10) days after the hearing, the board of county commissioners shall make an order thereon with or without modification, based upon the public hearing and their determination of whether the proposed library district would be in keeping with the declared public policy of the state of Idaho in regard to library districts as more particularly set forth in section 33-2701, Idaho Code, and, shall accordingly fix the boundaries and certify the name of the proposed district in the order granting the petition. The boundaries so fixed shall be the boundaries of the district after its establishment is completed as provided in this chapter.

33-2705. Conduct of election. Upon the county commissioners having made the order referred to in subsection (5) of section 33-2704, Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be established under the provisions of this chapter. The date of this election shall be the next uniform election date as provided for in section 34-106, Idaho Code. Whenever more than one (1) petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for in chapter 14, title 34, Idaho Code, and under the general election laws of the state of Idaho. The ballot shall contain the words "(Name) Library District--Yes" and "(Name) Library District--No," each followed by a box wherein the voter may express his choice by marking a cross "X." The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and the board of county commissioners shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board of county commissioners shall, within seven (7) days after the returns have been canvassed, enter an order declaring the library district established, designating its name and boundaries including a map prepared in a draftsmanlike manner. The board of county commissioners shall transmit a copy of the order to the county recorder, county assessor, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held. A copy of the order shall also be transmitted to the state library board.

33-2706. Establishment of library district embracing more than one county. When the proposed library district embraces more than one (1) county, the petition and procedure for praying for the establishment of the district shall be carried forward in each county as though that county were the only county affected. Each petition shall designate the same home county for the proposed district.

The board of county commissioners of the home county shall advise with the board of county commissioners in any other county affected to the end that the election shall be held in each county on the same day. The board of county commissioners in each county shall proceed in the conduct of the election as though the election were being held only in that county as set forth in section 33-2705, Idaho Code. After the canvass of the returns, the results in each other county shall be certified to the board of county commissioners of the home county, together with all ballots and tally sheets. The board of county commissioners of the home county shall canvass all returns and certify the results of the election to the board of county commissioners of any other county affected. The proposal shall be deemed approved only if a majority of all votes cast in each county were cast in the affirmative. If this is the case, the board of county commissioners of the home county shall enter an order declaring the library district to be created, designating its name and boundaries, including a map prepared in a draftsmanlike manner. A certified copy of the order shall be transmitted by the board of county commissioners to the county recorder, the county assessor and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held. A copy of this order shall also be transmitted to the board(s) of county commissioners of any other county affected, which shall enter the order in its minutes. A copy of this order shall also be transmitted to the state library board.

33-2707. Addition of territory not having a tax supported library to a library district -- Petitions and signatures -- Election.

(1) Any area which does not have a tax supported library and which is contiguous to an existing library district may become a part of the district by petition and election.

(2) A petition may arise as set forth in section 33-2704, Idaho Code, in the area seeking to become a part of the library district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the library district may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners in the county in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area described in the petition. Notice of the election shall be given, the election shall be conducted on the next uniform election date as provided in section 34-106, Idaho Code, and the returns thereof canvassed as provided in section 33-2705, Idaho Code. The ballot shall bear the question: "Shall .... become a part of the .... (Name) Library District .... Yes" and "Shall .... become a part of the .... (Name) Library District .... No," each followed by a box in which the voter may express his choice by marking a cross "X". The proposal shall be deemed approved only if the majority of the votes cast in the area seeking to become a part thereof is in the affirmative.

(4) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map prepared in a draftsmanlike manner. A copy of this order shall be transmitted to the board of trustees of the library district, to each board of county commissioners of the county in which the district lies, and to the state library board.

(5) The board of trustees of the library shall transmit a certified copy of this order to the county recorder, the county assessor of the home county and to the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held.

(6) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointment shall be made as provided in section 33-2716, Idaho Code.

33-2708. Addition of territory not having a tax supported library to a library district -- Alternate method.

(1) An alternate method of adding territory to a library district may be initiated by a petition or petitions as set forth in section 33-2704, Idaho Code, except that the petitions must be signed by sixty percent (60%) of the qualified electors in the area to be annexed.

(2) A true copy of the petitions shall be transmitted to the board of trustees of the library district and to the board of county commissioners in each county affected. The board of trustees may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners of the county in which the petition arose shall proceed with the required

hearing and resolution as outlined in section 33-2704, Idaho Code.

(4) When the proposal has the approval of the board of county commissioners, the board of trustees of the district and the board of county commissioners shall follow these procedures:

(a) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and transmit a copy of the order to the board of county commissioners in the county in which the petition arose. A copy of this order shall also be sent to the state library board.

(b) The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the order was granted.

(c) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code.

33-2709. Existing tax-supported city libraries may join library districts. Any tax-supported city library may join an established library district by majority vote of the qualified electors of the city according to procedure set forth in section 33-2707, Idaho Code. A true copy of the petition and the district library board's notice of approval or disapproval shall be sent to the city council. When the notice carries the approval of the district library board, the city council shall conduct the election and give notice of the results to the library district board and the board of county commissioners.

If the proposal has been approved by the majority required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and a copy shall be transmitted to the board of trustees of the library district, to the board of county commissioners of the county in which the petition arose, and to the state library board.

The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county and the state tax commission in a timely manner, but no later than December 15, in the year in which the election was held.

Addition of new territory to an existing library district shall not be considered an initial establishment. The existing district board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code.

33-2710. Determination of the property portion of the budget for consolidated libraries -- District and district -- District and city.

(1) When two (2) district libraries have agreed to consolidate, the property tax portion of the new consolidated district's first budget will be determined in the following manner.

The property tax portion of each district's most recent annual certified budget will be added together. The resulting figure will be considered the dollar amount of property taxes on which to base the first annual budget for the new consolidated district. The provisions of section 63-802, Idaho Code, shall be applied to this dollar amount.

(2) When a tax supported city library has voted to consolidate with a district library, the property tax portion of the new consolidated district's first annual budget will be determined in the following manner.

The city library budget figure will be defined as the budget for library services, whether from the general fund and/or the library fund, in the city's most recent annual certified budget, less fines, fees, and any other identifiable revenues from nontax sources, and any grants made directly to the city library board. The city library budget figure and the property tax portion of the public library district's most recent annual certified budget will be added together. The resulting figure will be considered the dollar amount of property taxes on which to base the first annual budget for the new consolidated district. The provisions of section 63-802, Idaho Code, shall be applied to this dollar amount.

If the city has established a dedicated library fund in the year in which consolidation was approved, those dollars will be removed from the city budget in the fiscal year in which the newly consolidated district begins to levy to provide library services.

(3) In any consolidation, the dollar amount of property taxes for the new consolidated district's budget shall not exceed six hundredths percent (.06%) of the market value for assessment purposes of all taxable property within the district.

(4) In any consolidation, the existing bonded debt of any district or districts shall not become the obligation of the proposed consolidated library district. The debt shall remain an obligation of the property which incurred the indebtedness.

33-2711. Consolidation of library districts. When there are two (2) or more library districts, which have at least one (1) common boundary, the boards of trustees of the library districts, meeting together, may determine that it is in the best interest of library service that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing library districts, the names of the existing library districts, and praying for the reorganization of the territory therein described as one (1) or more library districts to be known as the ".... (Name) Library District" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the library boards upon majority approval of the respective boards involved in the consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2704, Idaho Code. Upon completion of the hearing, the board of county commissioners shall issue an order granting the petition.

In the order granting the petition of consolidation, the board of county commissioners in all counties affected shall certify the new boundaries and the name of the district.

A copy of the order shall be transmitted to the board of trustees of the library districts involved, and to the state library board.

Other notices required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries prepared in a draftsmanlike manner to be filed with the board(s) of county commissioners, the county recorder, the county assessor of the home county, the state library board, and the state tax commission in a timely manner, but no later than December 15, of the year in which consolidation takes place.

The board of county commissioners of the home county of the consolidated public library district shall within ten (10) days take action to reaffirm members of the board of trustees, or to appoint members of the board, who shall be chosen from the members of the boards initiating the consolidation. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as in section 33-2715, Idaho Code. The board of trustees shall take the oath of office as outlined in section 33-2715, Idaho Code.

33-2711A. Adjustment of boundary lines between existing public library districts. When the boards of two (2) public library districts having a common boundary determine that it is in the best interest of public library service that an adjustment of library district boundaries be made, this adjustment may be made using the following procedure.

The board of trustees shall jointly prepare a petition describing the boundaries of both the existing and proposed public library district, including maps prepared in a draftsmanlike manner, and the names of the public library districts, praying for the reorganization of the territory therein described.

The petition shall be signed by the chairperson of the library boards upon majority approval of the respective boards involved in the boundary adjustment.

The petition shall be forwarded to the clerk of the board(s) of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the boards of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2711, Idaho Code. Upon the completion of the hearing, the board of county commissioners shall issue an order granting the petition.

33-2713. Dissolution of library district. A library district may be dissolved according to procedures followed in its original organization, but not earlier than four (4) years after the date of its establishment. The ballot shall contain the words "Shall (Name) Public Library District be dissolved--Yes" and "Shall (Name) Public Library District be dissolved--No," each followed by a box wherein a voter may express his choice by marking a cross "X". If the library district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it is determined that the proposition has been approved, the board of county commissioners of the home county shall enter its order to that effect and transmit a copy of said order to the board of county commissioners in any other county affected, and said order shall by them be made a matter of record. When any library district is dissolved, all property and assets of the library district shall be disposed of by the board of county commissioners of the home county. Receipts from the sale of assets and all unpaid taxes, when collected, shall be first used to retire any indebtedness of the district. Any remainder shall be apportioned to the counties embraced in the library district in proportion to the assessed valuation of each which was included in the library district, and placed in the respective county general expense fund. If, after the application of the tax monies and sale proceeds, indebtedness remains, the board of county commissioners of the home county shall provide for the payment of the remaining indebtedness from special levies certified to each county in proportion to the assessed valuation of each which was included in the district. The tax shall be collected by each county and remitted to the home county for payment of the remaining indebtedness.

33-2714. Library districts -- Public corporations. Each library district shall be a public corporation, may sue and be sued in its corporate name and may contract and be contracted with.

33-2715. Board of trustees -- Selection -- Number -- Qualifications -- Term -- Oath -- Appointment of first board. Each library district shall be governed by a board of trustees of five (5) members elected or appointed as provided by law, who at the time of their selection and during their terms of office shall be qualified electors of the district and if trustee zones have been established under section 33-2718, Idaho Code, shall be a resident of the trustee zone. One (1) trustee shall be elected at each annual trustee election. The regular term of a trustee shall be for five (5) years, or until his successor has been elected and qualified. Within ten (10) days after his appointment an appointed trustee shall qualify and assume the duties of his office. An elected trustee shall qualify and assume the duties of his office at the annual meeting. All trustees qualify by taking the oath of office required of state officers, to be administered by one (1) of the present trustees or by a trustee retiring.

Following the initial establishment of a library district, the board of county commissioners of the home county within five (5) days shall appoint the members of the first board of trustees, who shall serve until the next annual election of trustees or until their successors are elected and qualified. Addition of new territory to an existing library district shall not be considered an initial establishment. The first board of trustees shall be sworn by a member of the board of county commissioners of the home county of the district.

At its first meeting, and after each trustee election, the board shall organize and elect from its membership a chairman and other officers necessary to conduct the affairs of the district.

Members of the board shall serve without salary but shall receive their actual and necessary expenses while engaged in business of the district.

33-2716. Board of trustees -- Nomination and election -- Recall -- Vacancies.

(1) The procedure for nomination and election of trustees of a library district shall be as provided for in chapter 14, title 34, Idaho Code, and in the general election laws of Idaho. If any two (2) or more candidates for the same trustee position have an equal number of votes, the board of trustees shall determine the winner by a toss of a coin.

(2) Notwithstanding the limitations of chapter 17, title 34, Idaho Code, each library district trustee shall be subject to recall following procedures as closely as possible to the procedures described for the recall of county commissioners pursuant to chapter 17, title 34, Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section 33-2702, Idaho Code.

If, pursuant to section 33-2717, Idaho Code, no election was held for the trustee being recalled:

(a) The number of district electors required to sign the petition seeking a recall election must be not less than fifty (50), or twenty per cent (20%) of the number of votes cast in the last trustee election held in the library district, whichever is the greater.

(b) To recall any trustee, a majority of the votes cast at the recall election must be in favor of the recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.

(3) A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustees shall (a) die; (b) resign from office; (c) no longer reside in his respective trustee zone of residence; (d) no longer be a resident or qualified elector of the public library district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend two (2) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in this chapter.

A declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above mentioned conditions is determined to exist.

The board of trustees shall appoint to fill the vacancy, a person qualified to serve as trustee of the public library district, provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the state library board of the appointment. This appointment shall be made within sixty (60) days of the declaration of vacancy. In the event that the board of trustees fails to exercise their authority, appointments shall be made by the board of county commissioners of the home county in which the district is located within thirty (30) days after the expiration of the sixty (60) days allowed for trustees for this action.

Any person appointed as provided in this chapter shall serve until the next annual election of public library district trustees following the appointment. At the annual election a trustee shall be elected to complete the unexpired term of the office which was declared vacant filled by appointment.

The elected trustee shall assume office at the first annual meeting of the public library district following the election.

33-2717. Board of trustees -- One nomination -- No election. In any election for the office of trustee it is not necessary to conduct an election if:

(1) after the expiration of the date for filing written nominations only one (1) candidate has been nominated for each position to be filled; and, there has been no declaration of intent to be a write-in candidate filed as provided in section 33-2717A, Idaho Code; or

(2) if no candidate has filed a written nomination and only one (1) candidate for each position to be filled has filed a declaration of intent to be a write-in candidate as provided in section 33-2717A, Idaho Code. If either of these conditions are present, the board of trustees shall no later than seven (7) days before the scheduled date of the election declare the candidate elected as trustee, and the clerk of the library board shall immediately make and deliver to this person a certificate of

election. The clerk of the library board shall also notify the clerk of the county commissioners of the home county and the state library. The procedure set forth in this section shall not apply to any other library district election.

33-2717A. Declaration of intent for write-in candidate. No write-in vote for library district trustee in a library district election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of library trustee if elected. The declaration of intent shall be filed with the clerk of the library board not later than twenty-five (25) days before the day of election.

33-2717B. Withdrawal of candidacy. Any person who filed a declaration of candidacy in accordance with the provisions of this chapter may withdraw from the election by filing a notarized statement of withdrawal with the clerk of the library board. The statement shall contain sufficient information necessary to identify the person and the office sought. A person may withdraw at any time prior to the day of election.

33-2717C. Procedure for correction of ballots. When any person withdraws his name from the election by filing a withdrawal of candidacy as provided in section 33-2717B, Idaho Code, the clerk of the library board shall cross the name of the person off the ballot and no votes cast shall be counted for that person. The clerk of the library board shall also inform the election board at each polling place that the person has withdrawn his candidacy from the election.

33-2718. Creation of trustee zones. Each library district may be divided into five (5) trustee zones with each zone having approximately the same population. In order for a library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and present a legal description of each trustee zone. The board of trustees shall transmit the motion along with the legal description of the trustee zones to the board or boards of county commissioners in the county or counties where the library district is contained. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and legal description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, they shall be deemed to be in full force and effect. If a library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the library board of trustees in writing if a proposal is rejected.

If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years after a new set of trustee zones are formally established and in full force and effect.

At the next regular meeting of the board of trustees of the library district following the approval of a trustee zone proposal by the board(s) of county commissioners, the public library district board shall appoint from its membership or from other qualified electors resident in each trustee zone, a person from that zone to serve as a trustee until the next regularly scheduled trustee election from that zone. All other matters relating to library district trustee zones shall be as provided in chapters 4 and 5, title 33, Idaho Code, relating to school district trustee zones.

33-2719. Board of trustees -- Meetings. The annual meeting of a library district board shall be on the date of its first regular meeting following each trustee election. The purposes of the annual meeting are to administer the oath of office to the newly elected or re-elected trustee or trustees, to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. The regular meetings of the board of trustees shall be held at least once in each quarter, at a uniform day of the month as the board of trustees shall determine at its annual meeting. Special or adjourned meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) members, but a smaller number may adjourn.

33-2720. Powers and duties of the board of trustees. It is the duty of each trustee to attend all meetings of the board of trustees. The board of trustees of each library district shall have the following powers and duties consistent with the laws of the state of Idaho:

1. To establish bylaws for its own government;
2. To establish policies for the government of the library or libraries under its control;
3. To establish and locate libraries, branch libraries or stations to serve the district and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for the conduct thereof;
4. To acquire by purchase, devise, lease, or otherwise, and to own and hold real and personal property and to construct buildings for the use and purposes of the library district, and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the district, and to insure the real and personal property of the district;
5. To accept gifts of real or personal property for the use and purposes of the library district under terms as may be a condition of the gift;
6. To purchase and distribute library materials;
7. To issue warrants, if used, in the manner specified for the issuance of warrants by school districts;
8. To invest any funds of the district in accordance with the public depository law;
9. To pay actual and necessary expenses of members of the library staff when on business of the district;
10. To see to the proper conduct of library district elections;
11. To exercise other powers, not inconsistent with law, necessary for the effective use and management of the library.

33-2721. Librarian -- Employees. The board of trustees of each library district shall appoint the library director, who shall serve as administrator of the library district and as the secretary for the board without voting rights. The director shall attend all executive sessions of the board of trustees, except those called to consider the evaluation, dismissal, or disciplining, or to hear complaints or charges against the library director. With the recommendation of the library director, the board shall employ other persons as may be necessary in the administration of the affairs of the library district. The board may fix and pay their salaries and compensation, classify employees and adopt schedules of salaries, and discharge any librarian or other employee for cause.

33-2722. Treasurer -- Clerk. The board of trustees of each library district shall appoint some qualified person, who may or may not be a member of the board of trustees, to act as treasurer of the library district. This person shall, on taking office, give bond to the library district, with sureties approved by the board of trustees, in the amount of at least five thousand dollars ($5,000), which bond shall be paid for by the district, and shall be conditioned upon faithful performance of the duties of his office and his accounting for all moneys of the library district received by him or under his control. The treasurer shall supervise all moneys raised for the library district by taxation or received by the district from any other sources and shall supervise all disbursements of funds of the district by order of the board of trustees.

Under the direction of the board of trustees, the treasurer shall have all moneys of the district deposited in accordance with the public depository law.

The board of trustees of each library district shall appoint some qualified person, who may or may not be a member of the board of trustees, to act as clerk of the library board. The clerk shall conduct library district elections, other than for excision, annexation, consolidation, or division; shall prepare and distribute legal notices; and shall have other duties as the board may prescribe.

33-2723. State treasurer trustee of library funds when required. When the conditions of the grant or appropriation so require, the state treasurer shall serve as trustee of funds appropriated to the state from any appropriation made by the federal government, the state, or any other agency for providing and equalizing library service in Idaho.

33-2724. Taxes for the support of library district. Any tax levied for library district purposes shall be a lien upon the property against which the tax is levied. The board of trustees shall determine and levy a tax upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed six hundredths per cent (.06%) of market value for assessment purposes. These levies shall be certified to the board of county commissioners of each county in which the district may lie, not later than the second Monday in September of each year.

In the first year after establishment, the board of a district may, for the purpose of organization and to finance general preliminary expenses of the district and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to six hundredths per cent (.06%) on each one dollar ($1.00) of market value for assessment purposes of all taxable property within the district. To repay the organization indebtedness incurred, the board shall have authority to levy and collect an additional tax not to exceed two hundredths per cent (.02%) per annum on each one dollar ($1.00) of market value for assessment purposes of all taxable property within the district. This additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. This additional levy may be imposed for three (3) years.

Library districts may accumulate fund balances at the end of a fiscal year and carry over these fund balances into the ensuing fiscal year, sufficient to achieve or maintain library district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

33-2725. Library district budget -- Public hearing -- Notice -- Adjustments. The board of trustees of each library district shall prepare for the ensuing fiscal year a budget and prior to its adoption shall have called and caused to be held a public hearing thereon at a regular or special meeting. Notice of the time and place of the hearing shall be published at least once in a newspaper printed, or having general circulation within the district or in the county in which the library district may lie. The board of trustees of each library district shall also prepare and publish, as a part of this notice, a summary statement of the budget for the ensuing year prepared in a manner consistent with standard accounting practices and indicating amounts previously budgeted for the then current year for purposes of comparison.

During the year the board of trustees may proceed to adjust the budget as adopted to reflect the receipt of unanticipated revenue, grants, or donations from federal, state or local government or private sources, provided that there shall be no increase in the ad valorem portion of the annual certified budget. Prior to the adoption of the budget adjustment, the library board shall have called and cause to be held a public hearing thereon at a regular or special meeting. Notice of the time and place of the hearing shall be published at least once in a newspaper printed or having general circulation within the district or in the county(ies) in which the library district may lie. The board of trustees of each library district shall also prepare and publish, as a part of this notice, a summary of the budget and the adjustments prepared in a manner consistent with standard accounting practices and indicating amounts previously budgeted for the then current year for purposes of comparison.

33-2726. Fiscal year -- Annual reports -- Audit. The fiscal year of each library district shall commence on the first day of October of each year. The board of trustees of each library district shall annually, not later than the first day of January, file with the state library board a report of the operations of the district for the fiscal year just ended. The report shall be on the form and contain the information that the state library board requires, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported.

The board of trustees of each library district shall cause to be made a full and complete audit of the books and accounts of the district as required in section 67-450B, Idaho Code.

33-2727. Purchase and sale of library services -- Contracts. In lieu of, or in addition to, establishing an independent library, the board of trustees may purchase specified library services by contract from any taxing unit, or public or private agency maintaining a library, providing that this unit or agency shall file an annual report with the board of trustees of the library district showing in detail the manner in which the funds of the library district have been spent.

The board of trustees of a library district may sell specified library services to any taxing unit, or public or private agency which agrees to make an acceptable annual appropriation for these services.

Any purchase or sale of library services shall be under contract for a term of three (3) years, which contract shall be automatically renewed at the end of this three (3) year period unless either party thereto gives notice not less than six (6) months before the termination of any existing contract, of intention not to renew the contract.

33-2728. Bond election. The purposes for which bonds may be issued shall be: To acquire, purchase, or improve a library site or sites; to build a library or libraries, or other building or buildings; to demolish or remove buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all facilities and appliances necessary to maintain and operate the buildings of the library; and to purchase motor vehicles for use as bookmobiles.

The library district may issue bonds in an amount not to exceed four-tenths percent (.4%) of the market value for assessment purposes of property within the district, less any aggregate outstanding indebtedness.

The board of trustees of any library district, upon approval of a majority thereof, may call a bond election on the question as to whether the board shall be empowered to issue bonds of the district in an amount and for a period of time to be stated in the notice of election. The notice of bond elections, the qualification of bond electors, the conduct of the election, and the canvass of election and determination of the result of election shall be in accordance with chapter 14, title 34, Idaho Code, and with the general election laws of the state of Idaho. The issuance of bonds, the expenditure of bond proceeds and the repayment of the bonds shall all be as specified in school district law.

33-2729. Plant facilities reserve fund and levy. The library district board of trustees is authorized to create a plant facilities reserve fund as set forth in sections 33-804 and 33-901, Idaho Code.

33-2737. School-community library districts.

(a) The board of trustees of any school district in which is situated no incorporated city having a population in excess of one thousand (1,000), and in which no public library is maintained under any other provision of law, shall, upon petition of twenty (20) or more school district electors, submit to the school district electors of the district the question whether there shall be a public library established by the district for the benefit of the citizens thereof.

(b) The election on the question shall be held at the same time as the election of school district trustees, next following the filing of the petition, and notice shall be given, the election conducted, and the returns canvassed, as provided in chapter 4, title 33, Idaho Code.

(c) If a majority of the school district electors voting in the election vote in favor of the question a school-community library district shall be established.

(d) No new school-community library shall be established after June 30, 1994.

33-2738. School-community library districts -- Board of trustees -- Trustee zones. Each school-community library district shall be governed by a board of trustees of five (5) members, who at the time of their selection and during their terms of office shall be qualified electors of the district.

(1) Four (4) of the trustees shall be elected. The procedure for nomination and election of trustees shall be as provided for the nomination and election of trustees of a library district pursuant to this chapter. Each school-community public library district may be divided into four (4) trustee zones with each zone having approximately the same population. In order for a school-community public library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and present a description of boundaries of each trustee zone. The board of trustees shall transmit the motion along with the boundaries of the trustee zones to the board or boards of county commissioners in the county or counties where the school-community public library district is contained. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the school-community public library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, the zones shall be deemed to be in full force and effect upon the next annual trustee election. If a school-community public library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the board of trustees in writing if a proposal is rejected.

If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years, after a new set of trustee zones are formally established and in full force and effect.

All other matters relating to school-community library public district trustee zones shall be as provided in chapters 4 and 5, title 33, Idaho Code, relating to school district trustee zones.

(2) The fifth trustee of the school-community library district board shall be a member of the school district board and shall be appointed by the school district board from its members at the annual meeting of the school district board. In the case of division of the district into four (4) elected school-community public library trustee zones, this fifth trustee shall serve as a trustee member-at-large.

(3) The initial board, except for the fifth trustee who shall be appointed by the school board, shall be appointed by the board of county commissioners, and shall serve until the next annual election of trustees or until their successors are appointed and qualified.

33-2739. School-community library districts -- Board of trustees -- Powers and duties -- Fiscal year.

(1) The board of trustees of the school-community library district shall perform the duties required of, and have the power and authority granted to library district trustees pursuant to this chapter, including the authority to levy upon the taxable property in the school-community library district an annual tax not to exceed six hundredths per cent (.06%) of market value for assessment

purposes for establishing and maintaining public library services. The school-community library district board shall have exclusive control of the school-community library district fund and shall cause to be made a full and complete audit of the books and accounts of the district as provided for in section 33-2726, Idaho Code.

(2) To bring the fiscal year of school-community library districts into conformity with the fiscal year of library districts, fiscal year 1994 for school-community library districts shall be defined as beginning on July 1, 1993 and ending on September 30, 1994. To fund school-community library district operations from July 1, 1993 through September 30, 1994:

(a) The four (4) existing school-community library districts are authorized to budget for the fifteen (15) month period;

(b) The county commissioners of the relevant counties are authorized to set the levy for the fifteen (15) month period for the four (4) existing school-community library districts;

(c) The state tax commission is authorized to approve the levy for the fifteen (15) month period for the four (4) existing school-community library districts;

(d) The relevant counties are authorized to collect ad valorem taxes for the fifteen (15) month period for the relevant existing school-community library districts within each county's boundaries;

(e) For the fifteen (15) month period only, the maximum allowable levy for school-community library districts shall be seven and one-half hundredths percent (.075%) of market value for assessment purposes.

This subsection (2) shall be void and of no further force and effect on and after September 30, 1994.

(3) On and after fiscal year 1995, school-community library districts shall have a fiscal year of October 1 through September 30.

33-2740. School-community library districts -- Consolidation -- Reorganization into library districts. School-community library districts may join existing library districts according to the procedures set forth in section 33-2711, Idaho Code.

School-community library districts may reorganize into a library district as follows. The board of trustees of the school-community library district shall present a resolution calling for reorganization to the board of county commissioners who shall follow the procedures in subsections (2) through (5) of section 33-2704, Idaho Code, except that no precedent petition shall be necessary. After the required hearing, the board of county commissioners shall appoint the first board of library district trustees and thereafter trustees shall be elected as provided in section 33-2715, Idaho Code. The school-community library district's dollar amount of the budget from ad valorem taxes shall be transferred without interruption to the new library district and shall be the base of the ad valorem portion of the new district's budget.

The dispersement of the assets and liabilities of the school-community library district shall be the responsibility of the school-community library district board of trustees should the library consolidate with a library district, organize into a library district, or dissolve.

TITLE 33, CHAPTER 48
IDAHO EDUCATIONAL TECHNOLOGY INITIATIVE

33-4801. Short title. This chapter shall be known and may be cited as the "Idaho Educational Technology Initiative of 1994."

33-4802. Findings. The legislature hereby finds, determines and declares that the state of Idaho recognizes the importance of applying technology to meet the public need for an improved, thorough and seamless public education system for elementary and secondary education, education of the hearing or visually impaired at the Idaho school for the deaf and blind, post-secondary and higher education and public libraries.

33-4803. Definitions. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the Idaho school for the deaf and blind, the professional-technical education system, the state library, the state historical society, Idaho public television, the community colleges, the four-year colleges and universities, the state department of education and the office of the state board of education.

(2) "Libraries" means district, city, school/community libraries, and the state library as described in chapters 25, 26 and 27, title 33, Idaho Code.

(3) "Technology" means all present and future forms of computer hardware, computer software and services used or required for automated data processing, computer-related office automation or telecommunications.

(4) "Telecommunications" means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance.

33-4804. State council for technology in learning created -- Membership. (1) There is hereby created and established the state council for technology in learning under the state board of education, referred to herein as the council.

(2) The council shall consist of fourteen (14) members who shall be appointed as follows:

(a) The superintendent of public instruction, or his designee. The superintendent of public instruction shall appoint one (1) practicing public school administrator as a member.

(b) The governor shall appoint two (2) business/private sector representatives with experience in applications of technology, and one (1) person who is a member of a local school board as provided in chapter 5, title 33, Idaho Code. Such local school board member shall be appointed by the governor from a list of not less than three (3) nor more than five (5) names submitted by the statewide association representing local school board members.

(c) The president pro tempore of the Idaho senate shall appoint two (2) members of the senate, one (1) from each of the two (2) largest political parties.

(d) The speaker of the house of representatives shall appoint two (2) members of the house of representatives, one (1) from each of the two (2) largest political parties.

(e) A representative of the higher education information technology committee as provided in section 33-4809, Idaho Code, and a public school teacher representative of the public education information technology committee as provided in section 33-4810, Idaho Code.

(f) The state board of education shall appoint one (1) of its members as a member of the council. In addition, the state board of education shall appoint one (1) member who is currently serving as president of an Idaho public college or university. The executive director of the state board of education as appointed pursuant to section 33-102A, Idaho Code, shall serve as a member of the council.

(g) The state board of education shall select from among the members of the council a chairman who shall call and conduct the meetings of the council pursuant to policies adopted by the council and approved by the state board of education.

(3) At the first meeting of the council after the effective date of this act, the members shall draw by lottery to determine one-half (1/2) of the members to serve an initial term of two (2) years and one-half (1/2) of the members to serve an initial term of four (4) years. Thereafter, all members shall serve a term of four (4) years but may be removed prior to the expiration of a term at the pleasure of the appointing official. Notwithstanding any other provision of law to the contrary, any member of the council may succeed himself in appointment.

(4) Members of the council shall receive compensation as provided in section 59-509(b), Idaho Code.

33-4805. Responsibilities of the council -- Council staff.

(1) Staff support for the council shall be drawn from the educational segments as recommended by the council and approved by the state board of education. The legislative intent is to provide broad representation of the various educational segments with the council staff.

(2) The council shall have the following responsibilities:

(a) Develop and maintain a statewide education technology plan to provide seamless education in Idaho. Such plan shall be subject to annual review and approval by the state board of education.

(b) Make recommendations to the state board of education on educational technology and telecommunications plans, policies, programs and activities for all educational segments.

(c) Subject to the approval of the state board of education, administer and develop standards and criteria for the public school technology grants program provided for in section 33-4806, Idaho Code.

(d) Ensure that the policies set by the information technology resource management council are followed in accordance with sections 67-5745B and 67-5745C, Idaho Code, in implementing educational technology programs pursuant to this chapter.

(e) Collaborate with all educational segments, as well as with professional education associations and businesses, in recommending priorities for funding and in identifying needs for technology use in education.

(f) Recommend to the state board of education, standards and procedures for the administration of this act, including, but not limited to, standards for technology-based resources, projects, programs, practices or products to be adopted or adapted, and standards and criteria by which to evaluate the technology-based programs. In addition, the council shall recommend exemplary programs, practices, or products based on the criteria established in this subsection.

(g) Recommend priorities for uses of educational technology.

(h) Work with representatives of the governing bodies of the educational segments to develop recommendations or strategies for the coordination, administration, and evaluation of educational technology programs and resources.

(i) Work with representatives of the governing bodies of the educational segments to identify strategies to coordinate statewide voice, video, and data telecommunications systems that may be accessed by the educational segments.

(j) To review, evaluate and build upon the educational technology projects in public schools funded through other state initiatives.

(k) To form such subcommittees or task forces as it deems necessary to review matters pertaining to a particular educational segment or to any other issues before the council.

33-4806. Public school technology grants. There is hereby established the public school technology grant program, which shall make available grants for schools to provide Idaho classrooms, including classrooms at the Idaho school for the deaf and blind, with the equipment and resources necessary to integrate information age technology with instruction and to further connect those classrooms with external telecommunications services. Grant applications shall include a project plan that describes proposed equipment and software purchases; how the proposed equipment and software will be used effectively in the classroom; provision for training teachers to make optimal use of the technology; provision for local matching funds as prescribed by the council; and other elements as prescribed by the council.

33-4807. Evaluations and audits. The legislative services office shall, from time to time as directed by the legislature, evaluate and audit the relative impact, costs and benefits of each of the educational technology programs conducted pursuant to this chapter. The state board of education shall report to the legislature and the governor each year on or before October 1 as to the relative impact, cost and benefit of the educational technology program conducted pursuant to this chapter.

33-4808. Severability. The provisions of this chapter are hereby declared severable, and in the event that any word, phrase, sentence, clause, paragraph or section of this chapter be determined by a court of competent jurisdiction to be invalid for any reason, such partial invalidity shall not affect the validity of the remainder of this chapter.

33-4809. Higher education information technology committee. The state board of education shall establish a standing subcommittee of the council to be known as the higher education information technology committee, the purpose of which is to advise the council regarding postsecondary and other education technology and telecommunications issues pertinent to the purposes of this chapter that affect educational segments not including primary and secondary education.

33-4810. Public education information technology committee. The state board of education shall, upon consideration of the recommendations of the superintendent of public instruction, establish a standing subcommittee of the council to be known as the public education information technology committee, the purpose of which is to advise the council regarding only primary and secondary education technology and telecommunications issues pertinent to this chapter. At a minimum, and not by way of limitation, the public education information technology committee membership shall include one (1) vocational education/applied technology teacher, one (1) public librarian, one (1) public school media specialist, one (1) elementary public school teacher, and one (1) secondary public school teacher.

TITLE 33, CHAPTER 50
MANAGEMENT OF INSTITUTIONAL FUNDS

33-5001. Definitions. In this chapter:

(1) "Institutional endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument, but shall not include permanent endowment funds managed pursuant to chapter 7, title 57, Idaho Code.

(2) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

(3) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(4) "Historic dollar value" means the aggregate fair value in dollars of: (a) an institutional endowment fund at the time it became an institutional endowment fund, (b) each subsequent donation to the fund at the time it is made, and (c) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(5) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

(6) "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include: (a) a fund held for an institution by a trustee that is not an institution, or (b) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

33-5002. Appropriation of appreciation. The governing board may appropriate for expenditure for the uses and purposes for which an institutional endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an institutional endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 33-5006, Idaho Code. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

33-5003. Rule of construction. Section 33-5002, Idaho Code, does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this chapter.

33-5004. Investment authority. In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

33-5005. Delegation of investment management. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

(1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;

(2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and

(3) authorize the payment of compensation for investment advisory or management services.

33-5006. Standard of conduct. In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short-term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

33-5007. Release of restrictions on use or investment.

(1) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(2) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the district court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an institutional endowment fund to a fund that is not an institutional endowment fund.

(3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(4) This section does not limit the application of the doctrine of cy-pres.

33-5008. Short title. This chapter may be cited as the "Uniform Management of Institutional Funds Act."

TITLE 34, CHAPTER 1
DEFINITIONS

34-106. Limitation upon elections. On and after January 1, 1994, notwithstanding any other provisions of the law to the contrary, there shall be no more than four (4) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

(1) The dates on which elections may be conducted are:

(a) the first Tuesday in February of each year; and

(b) the fourth Tuesday in May of each year; and

(c) the first Tuesday in August of each year; and

(d) the Tuesday following the first Monday in November of each year.

(e) In addition to the elections specified in paragraphs (a) through (d) of this subsection, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, [such] as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property. Such a special election, if conducted by the county clerk, shall be conducted at the expense of the political subdivision submitting the question.

(2) Candidates for office elected in February, May or August shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 1994, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules, regulations or interpretations for the conduct of election authorized under the provisions of this section.

(6) School districts governed by title 33, Idaho Code, and water districts governed by chapter 6, title 42, Idaho Code, are exempt from the provisions of this section.

(7) Initiative, referendum and recall elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such initiative, referendum or recall election shall be held.

TITLE 34, CHAPTER 3
ELECTION PRECINCTS AND JUDGES

34-302. Designation of precinct polling places. The board shall, not less than thirty (30) days before any election, designate a suitable polling place for each election precinct. Insofar as possible, the board shall designate the same polling place for the general election which it designated for the primary election. The physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. All polling places designated as provided herein, shall conform to the accessibility standards adopted by the secretary of state pursuant to the "Voting Accessibility for the Elderly and Handicapped Act," P.L. 98-435. The expense of providing such polling places shall be a public charge and paid out of the county treasury.

TITLE 34, CHAPTER 7
NOMINATIONS -- CONVENTIONS -- PRIMARY ELECTIONS

34-702A. Declaration of intent for write-in candidates. No write-in vote for any office in a primary, special, or general election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office and with the county clerk if for a county office. Such declaration of intent shall be filed not later than fourteen (14) days before the day of election. The secretary of state shall prescribe the form for said declaration.

34-717. Withdrawal of candidacy. A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. The filing officer shall immediately notify the proper central committee of the party, if any, of the individual withdrawing. A candidate may not withdraw later than forty-five (45) days before an election, except in the case of a general election when the deadline shall be no later than September 7. Filing fees paid by the candidate shall not be refunded.

Any candidate who has filed a statement of withdrawal pursuant to this section shall not be allowed to be appointed to fill a vacancy unless such vacancy occurs because of the death of a previous candidate.

TITLE 34, CHAPTER 14
UNIFORM DISTRICT ELECTION LAW

34-1401. Election administration. Notwithstanding any provision to the contrary, the election official of each political subdivision shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. School districts governed by title 33, Idaho Code, and water districts governed by chapter 6, title 42, Idaho Code, irrigation districts governed by title 43, Idaho Code, ground water districts governed by chapter 52, title 42, Idaho Code, and municipal elections governed by the provisions of chapter 4, title 50, Idaho Code, are exempt from the provisions of this chapter. All municipal elections shall be conducted pursuant to the provisions of chapter 4, title 50, Idaho Code, except that they shall be governed by the elections dates authorized in section 34-106, Idaho Code, the registration procedures prescribed in section 34-1402, Idaho Code, and the time the polls are open pursuant to section 34-1409, Idaho Code. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the various county clerks and political subdivision election officials. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

A political subdivision may contract with the county clerk to conduct all or part of the elections for that political subdivision. In the event of such a contract, the county clerk shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

34-1402. Registration. All electors must register with the county clerk before being able to vote in any primary, general, special or any other election conducted in this state. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. The register of electors shall be maintained by the clerk in a manner which will make this information readily available to the electors and to the election officials of the various political subdivisions. The determination of tax code area shall be made for all political subdivisions including those otherwise exempt from the provisions of this chapter.

The county clerk shall conform to the provisions of chapter 4, title 34, Idaho Code, in the administration of registration for all political subdivisions within the county. The county clerk shall appoint each city clerk for any city within the county and each election official designated by a political subdivision, as an at-large registrar as provided in section 34-406, Idaho Code, except that no compensation shall be paid by the county clerk for electors registered by these special registrars.

34-1403. Conduct of elections. All elections conducted in this state on behalf of each political subdivision within the county shall be conducted in a uniform manner with regard to the qualifications of electors and shall be conducted on the dates as provided by law. In the event that a statute governing a political subdivision provides for qualifications more restrictive than the qualifications for an elector in section 34-402, Idaho Code, the election official of the district shall provide an elector's oath to be executed at the time of the election certifying to the elector's qualifications for the specific election.

34-1404. Declaration of candidacy. Candidates for election in any political subdivision shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the office for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the candidate's specific zone or district of the political subdivision, and be filed with the election official of the political subdivision. The form of the nominating petition shall be as provided by the county clerk and shall be uniform for all political subdivisions. For an election to be held on the fourth Tuesday in May, in even-numbered years, the nomination petition shall be filed during the period specified in section 34-704, Idaho Code. The election official shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees and any special questions placed by action of the governing board of the political subdivision. For an election to be held on the first Tuesday after the first Monday of November, in even-numbered years, the nomination shall be filed on or before September 1. The election official shall verify the qualifications of the nominees, and shall not later than seven (7) days after the close of filing, certify the nominees and any special questions placed by action of the governing board of the political subdivisions. For all other elections, the nomination shall be filed not later than 5:00 p.m. on the sixth Friday preceding the election for which the nomination is made. The election official shall verify the qualifications of the nominee, and shall not more than seven (7) days following the filing certify the nominees and any special questions, placed by action of the governing board of the political subdivisions, to be placed on the ballot of the political subdivision.

34-1405. Notice of election filing deadline. [(1)] Not more than fourteen (14) nor less than seven (7) days preceding the candidate filing deadline for an election, the election official of each political subdivision shall cause to be published a notice of the forthcoming candidate filing deadline. The notice shall include not less than the name of the political subdivision, the place where filing for each office takes place, and a notice of the availability of declarations of candidacy. The notice shall be published in the official newspaper of the political subdivision.

(2) The secretary of state shall compile an election calendar annually which shall include not less than a listing of the political subdivisions which will be conducting candidate elections in the forthcoming year, the place where filing for each office takes place, and the procedure for a declaration of candidacy. Annually in December, the county clerk shall cause to be published the election calendar for the county for the following calendar year. It shall be the duty of the election official of each political subdivision to notify the county clerk, not later than the last day

of November, of any election for that political subdivision to occur during the next calendar year. In the event of failure to so notify the county clerk, the election official of the political subdivision shall cause to be published notice of the omitted election as soon as he is aware of the omission. This publication shall be in addition to the publication required by paragraph (1) of this section. The election calendar for the county shall be published in at least two (2) newspapers published within the county, but if this is not possible, the calendar shall be published in one (1) newspaper which has general circulation within the county. Copies of the election calendar shall be available, without charge, from the office of the secretary of state or the county clerk.

34-1406. Notice of election. The election official of each political subdivision shall give notice for any election by publishing such notice in the official newspaper of the political subdivision. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election.

34-1407. Write-in candidates. No write-in candidate for any nonpartisan elective office shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office. The declaration of intent shall be filed with the election official not less than twenty-five (25) days before the date of the election.

If the statutes governing elections within a specific political subdivision provide that no election shall be held in the event that no more than one (1) candidate has filed for an office, that statute shall be interpreted in such a manner as to allow for filing a declaration of intent for a write-in candidate until twenty-five (25) days preceding the election. However, if no candidate has filed within that time, no election shall be held for that political subdivision. The provisions of this section shall not apply to candidates in the primary or general election covered by the provisions of section 34-702A, Idaho Code.

34-1408. Absentee ballots. Any registered elector may vote at any election by absentee ballot as provided in chapter 10, title 34, Idaho Code. In the event of a written application to the county clerk for an absentee ballot, the application shall be deemed to be an application for all ballots to be voted in the election, and the county clerk shall notify the election official of each political subdivision conducting an election at that date, and the election official shall provide the ballot of the political subdivision to the elector.

34-1409. Conduct of election on election day. At all elections conducted by any political subdivision, the polls shall be opened at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the election official may, at his option, open the polls in his jurisdiction at 7:00 a.m.

All political subdivisions conducting elections on the same date shall, whenever practicable, use the same polling places.

34-1410. Canvassing of election results. Each political subdivision shall conduct the canvass of the election results, in the manner provided in chapter 12, title 34, Idaho Code. Each political subdivision shall issue the appropriate certificates of election.

TITLE 34, CHAPTER 17
RECALL ELECTIONS

34-1701. Officers subject to recall. The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

(1) State officers:

(a) The governor, lieutenant-governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;

(b) Members of the state senate, and members of the state house of representatives.

(2) County officers:

(a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.

(3) City officers:

(a) The mayor;

(b) Members of the city council.

(4) Special district elected officers for whom recall procedure is not otherwise provided by law.

34-1702. Required signatures on petition. A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1)(a) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1)(b) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors of the legislative district equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2)(a) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk, and must be signed by registered electors of the county equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, Idaho Code, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors of the

district equal in number to fifty per cent (50%) of the number of electors who cast votes in the last election of the district.

34-1703. Form of petition.

(1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable ...., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that ...., holding the office of ...., be recalled by the registered electors of this state for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable ...., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No. ...., respectfully demand that ...., holding the office of ...., be recalled by the registered electors of Legislative District No. .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No. ...., my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the honorable ...., County Clerk for the County of ....:

We, the undersigned citizens and registered electors of the County of ...., respectfully demand that ...., holding the office of ...., of the County of ...., be recalled by the registered electors of the County of .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of ...., my residence, post

office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the honorable ...., City Clerk for the City of ....:

We, the undersigned citizens and registered electors of the City of ...., respectfully demand that ...., holding the office of ...., of the City of ...., be recalled by the registered electors of the City of .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of ...., my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the honorable ...., County Clerk of the County of ....:

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that ...., holding the office of ..., of the (district), be recalled by the registered electors of the (district) for the following reasons, to-wit: (insert the reasons for the recall in two hundred (200) words or less); that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

34-1704. Printing of petition and sheets for signatures -- Time limits for perfecting petition.

(1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state, county clerk, or city clerk, as the case may be, a copy of such petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions for recall and sheets for signatures shall be printed on a good quality bond or ledger paper, on pages eight and one-half (8 1/2) inches in width by thirteen (13) inches in length, with a margin of one and three-fourths (1 3/4) inches at the top for binding, and the sheets for

signatures shall have numbered lines thereon from one (1) to twenty (20) for signatures. The petition shall be prepared in sections, with each section numbered consecutively. Each section of a petition must have a printed copy of the petition as the first page, and each section shall have attached to it not more than ten (10) sheets for signatures.

(2) The secretary of state, county clerk, or city clerk, as the case may be, shall indicate in writing on the recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the secretary of state, county auditor, or city clerk, shall inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of certified signatures within sixty (60) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the sixty (60) days allowed shall be declared null and void ab initio in its entirety, except for the extension allowed for in section 34-1707, Idaho Code.

34-1705. Verification on sheets for signatures. Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho
ss.
County of

I, ..., swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature) ....
Post office address ....
....
Subscribed and sworn to before me this .... day of ...., 19...
(Notary Seal)
.... Notary Public
Residing at ....

34-1706. Examination and certification of signatures.

(1) All petitions with attached signature sheets shall be presented to the secretary of state, county clerk, or city clerk, as the case may be, on the same day, and a cursory examination of the petitions shall be made by such officer first receiving them. The cursory examination shall be made to determine whether the petitions apparently contain the necessary number of signatures.

(a) If the total number of signatures on the petitions is not sufficient to satisfy the number required by section 34-1702, Idaho Code, all petitions with attached signature sheets shall be retained by the officer who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered.

(b) If the cursory examination of the signature sheets reveals:

(i) Erasures on any signature;

(ii) Illegible or undecipherable signatures;

(iii) Signatures not properly identified by all of the information required on the sheet;

(iv) Duplicate signatures;

(v) Signatures of persons who have requested in writing to have their names removed from the petition;

The officer making such cursory examination shall summarily reject such signatures and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the rejecting officer. If the total number of signatures not rejected is not sufficient to satisfy the number required by section 34-1702, Idaho Code, all petitions with attached signature sheets shall be retained by the officer who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered.

(2) (a) All recall petitions presented to the secretary of state found to apparently contain the necessary number of signatures, after the examination provided for in section 34-1706(1), Idaho Code, shall be filed by the secretary of state and become public records of the state not to be returned. The secretary of state shall promptly transmit the petition sections with attached signature sheets to the proper county clerk, with an accompanying letter from the secretary of state ordering the signature sheets to be examined and returned to the secretary of state within ten (10) days. The county clerk shall examine each signature purported to be that of a registered elector from his county, and compare each such signature with the registration documents available to the county clerk. The county clerk shall summarily reject all signatures:

(i) Which are illegible or undecipherable;

(ii) Which are not the signatures of registered electors; and such rejected signatures shall not be counted;

(iii) Duplicate signatures; and

(iv) Signatures of persons who have requested in writing to have their names removed from the petition.

Each rejected signature shall be drawn through with ink and initialed by the auditor.

The county clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature.

The county clerk shall certify to the secretary of state within the specified number of days the number of signatures on the petition found to be of registered electors, and shall return all petitions to the secretary of state.

(b) The secretary of state shall total the number of certified signatures from each of the county clerks, if applicable, and if found to total the number of signatures required by section 34-1702, Idaho Code, shall proceed as provided in section 34-1707, Idaho Code.

(3) All recall petitions presented to the county clerk for the recall of any county officer or special district officer found to apparently contain the necessary number of signatures, after the examination provided for in section 34-1706(1), Idaho Code, shall be filed with the county clerk and become public records of the county not to be returned. The county clerk shall examine each

signature purported to be that of a registered elector from his county, and compare each such signature with the registration documents available to the county clerk. The county clerk shall summarily reject all signatures which are not the signatures of registered electors; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the clerk. The county clerk may take not to exceed ten (10) days after filing of the petition to complete his examination.

The county clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature.

The county clerk shall total the number of certified signatures, and if found to total the number of signatures required by section 34-1702, Idaho Code, shall proceed as provided in section 34-1707, Idaho Code.

(4) All recall petitions presented to the city clerk for the recall of any city officer found to apparently contain the necessary number of signatures, after the examination provided for in section 34-1706(1), Idaho Code, shall be filed with the city clerk and become public records of the city not to be returned. The city clerk shall examine each such signature purported to be that of a registered elector of the city, and compare each such signature with the registration documents available to the city clerk. The city clerk shall summarily reject all signatures which are not the signatures of a registered elector of the city; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the city clerk. The city clerk may take not to exceed ten (10) days after filing of the petition to complete his examination.

The city clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature.

The city clerk shall total the number of certified signatures, and if found to total the number of signatures required by section 34-1702, Idaho Code, shall proceed as provided in section 34-1707, Idaho Code.

34-1707. Sufficiency of petition -- Notification -- Effect of resignation -- Special election.

(1) (a) In the event that a petition filed with the secretary of state does not contain the required number of certified signatures after being returned by the county clerks, the secretary of state shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the secretary of state finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the secretary of state shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, Idaho Code. If the officer being recalled is one (1) specified in section 34-1701(1)(a), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1)(b), Idaho Code, the special election shall be conducted only in the legislative district.

(2) (a) In the event that a petition filed with a county clerk does not contain the required number of certified signatures, the county clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted county-wide.

(c) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, and the governing board and election officials of the special district that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the special district in the manner provided in section 34-1401, Idaho Code, and the special district may contract with the county clerk as provided in section 34-1401, Idaho Code.

(3) (a) In the event that a petition filed with a city clerk does not contain the required number of certified signatures, the city clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the city clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted city-wide.

34-1708. Form of recall ballot. The ballot at any recall election shall be headed "RECALL BALLOT" and on the ballot shall be printed in not more than two hundred (200) words the reason for demanding the recall of the officer named in the recall petition, and in not more than two hundred (200) words the officer's justification of his course in office. Then the question of whether the officer should be recalled shall be placed on the ballot in a form substantially similar to the following:

FOR recalling ..... who holds office of ....
AGAINST recalling ..... who holds office of ....

34-1709. Officer to continue in office. The officer named in the recall petition shall continue to perform the duties of his office until the results of the special recall election are officially declared.

34-1710. Conduct of special recall election. Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as general elections, except as otherwise provided. Nothing in this chapter shall preclude the holding of a recall election with another election.

34-1711. Canvass of returns.

(1) The board of county commissioners shall act as the board of canvassers for all special recall elections involving state and county officers that involve elections held wholly or partly within their county.

(a) For all special recall elections involving state officers, the board of county commissioners shall meet at 12 noon on the third day after said election to canvass the votes cast at such election, and shall immediately transmit to the secretary of state an abstract of the votes cast.

(i) Within ten (10) days following the special recall election held to recall a state officer, the state board of canvassers shall meet and canvass the votes cast at such election, and the secretary of state shall immediately after the completion thereof, proclaim the results.

(b) For all special recall elections involving county officers, the board of county commissioners shall meet at 12 noon on the third day after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results.

(c) For all special recall elections involving city officers, the mayor and council shall meet within five (5) days after said election to canvass the votes cast at such election, and the city clerk shall immediately after the completion thereof, proclaim the results.

34-1712. General election laws control.

(1) The provisions relating to general elections, including the payment of expenses of conducting the recall election, shall govern special recall elections except where otherwise provided for.

(2) Whenever a special recall election is ordered, notice must be issued and posted in the same manner as for a general election.

(3) To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must equal or exceed the votes cast at the last general election for that officer.

(4) If recalled, an officer shall be recalled as of the time when the results of the special recall election are proclaimed, and a vacancy in the office shall exist.

(5) If an officer is recalled from his office the vacancy shall be filled in the manner provided by law for filling a vacancy in that office arising from any other cause.

34-1713. Time within which recall may be filed -- Removal of signatures.

(1) No petition for a recall shall be circulated against any officer until he has actually held his office ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed.

(4) The signer of any recall petition may have his name removed from the petition at any time after the petition has been filed, but prior to the time when an election has been ordered, by presenting or submitting to the officer who receives the recall petition, a signed statement, that the signer desires to have his name removed from the petition. The statement shall contain sufficient

information to clearly identify the signer. The officer who receives the statement shall immediately strike the signer's name from the petition, and adjust the total of certified signatures on the petition accordingly. The statement shall be attached to, and become a part of the petition for recall.

34-1714. Prohibited acts -- Penalties.
(1) A person is guilty of a felony who:
(a) Signs any name other than his own to any recall petition;
(b) Knowingly signs his name more than once on the same recall petition;
(c) Knowingly signs his name to any recall petition for the recall of any state, county or city officer if he is not a registered elector;
(d) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;
(e) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;
(f) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;
(g) Makes any false affidavit concerning any recall petition or the signatures appended thereto;
(h) Offers, proposes or threatens for any pecuniary reward or consideration:
(i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;
(ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;
(iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.
(2) A public officer is guilty of a felony who:
(a) Knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

34-1715. Refusal to accept petition -- Mandate -- Injunction. If the secretary of state, county clerk, or city clerk, shall refuse to accept and file any petition for the recall of a public officer with the requisite number of eligible signatures, any citizen may apply within ten (10) days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state, county clerk, or city clerk shall then accept and file the recall petition, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office, except that the time limitations required by section 34-1704(2), Idaho Code, shall begin to run only as of the date of the court judgment, which shall be so stated in the judgment. On a showing that the petition is not legally sufficient, the court may enjoin the secretary of state, county clerk, or city clerk, and all other officers from certifying or printing any official ballot for a recall election. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten (10) days after a decision is rendered. The district court of the state of Idaho in and for Ada County shall have jurisdiction in all cases involving the recall of state officers.

TITLE 34, CHAPTER 20

ELECTION CONTESTS OTHER THAN LEGISLATIVE AND STATE EXECUTIVE OFFICES

34-2001A. Bond election and mill levy contests -- Time for filing -- Validation of elections and bonds. A. The provisions of this chapter with respect to the contest of elections shall be applicable to bond elections conducted by cities, counties, school districts and water and sewer districts, and to elections conducted by school districts for mill levy increases as authorized by sections 33-802, 33-803 and 33-804, Idaho Code. Any such contest shall be regarded as one contesting the outcome of the vote on the bond or mill levy proposition, rather than election to office, and the public entity calling the election rather than a person declared to have been elected to office, shall be regarded as the defendant.

B. When the validity of any bond or mill levy election is contested upon any of the grounds enumerated in section 34-2001, Idaho Code, or upon any other grounds whatsoever the plaintiff or plaintiffs must, within forty (40) days after the votes are canvassed and the results thereof declared, file in the proper court a verified written complaint setting forth, in addition to the other requirements of this chapter, the following:

(1) The name of the party contesting the bond or mill levy election, and that he is an elector of the public entity conducting the bond or mill levy election.

(2) The proposition or propositions voted on at the election which are contested.

(3) The particular grounds of such contest.

C. No such election contest shall be maintained and no bond or mill levy election shall be set aside or held invalid unless a complaint is filed as permitted hereunder within the period prescribed in this section. As to bond or mill levy elections which have been held prior to the effective date of this act, no such contest shall be maintained wherein it is alleged that the election should be set aside or held on any ground enumerated in section 34-2001, Idaho Code, or on any other ground, unless such election contest be filed as herein provided within forty (40) days from and after the effective date of this act.

D. All bond elections conducted by cities, counties, school districts and water and sewer districts prior to the effective date of this act, and all proceedings had in the authorization and issuance of the bonds authorized thereat, are hereby validated, ratified and confirmed and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which is being contested at the time this act takes effect, or any election the legality of which is contested within the forty (40) day period from and after the effective date of this act.

TITLE 39, CHAPTER 32
BUILDING FACILITIES FOR PHYSICALLY HANDICAPPED

39-3201. Public buildings to be made accessible to the physically handicapped. It is hereby declared that the legislature of the state of Idaho, by the passage of this act, recognizes that there has long been a need for action by the state and the political subdivisions within the state to make all public buildings, accommodations and facilities accessible to, and functional for, the physically handicapped; that the primary purpose of this act is to encourage and direct, subject to the limitations hereinafter set forth, the removal and elimination of architectural barriers to the physically handicapped in public buildings, accommodations and facilities designed and planned after the effective date of this order to encourage and facilitate the employment of the physically handicapped and to make public buildings accessible to and usable by the physically handicapped: that it is the intent of the legislature to insure that all public buildings, structures, accommodations, sidewalks, curbs, parking areas, and related facilities shall be accessible to and usable by, the physically handicapped.

39-3202. Definitions. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Administrator" means the administrator for the division of public works for the state of Idaho or local responsible contracting authority.

(2) "Public accommodations" or "facilities" means a building, structure, facility, or complex, which is used primarily by the general public as a place of gathering or amusement, and shall include auditoriums and stadiums.

(3) "Blind," "totally blind," "visually handicapped" and "partially blind" means having central visual acuity not to exceed 20/200 in the better eye, with corrected lenses, as measured by the Snellen test, or visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty degrees (20»).

(4) "Public buildings" and "facilities" means buildings and facilities constructed by the state, any county, city, district, authority, board, or any public corporation or entity, whether organized and existing under charter or general law.

39-3203. Standards -- Applicability -- Exception.

(1) All public buildings, structures, sidewalks, curbs, parking lots and related facilities, constructed in this state after the effective date of this act [July 1, 1974] shall conform to each of the standards and specifications in the "American Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," from the American National Standards Institute (ANSI A117.1-1961) as amended and reaffirmed in 1971, by the American Standards Association as modified or amended.

(2) Except as otherwise provided in this act, this chapter shall be limited in its application to all public buildings and facilities enumerated in sections 39-3201 and 39-3202(2), Idaho Code,

intended for use by the public, which have any reasonable availability to, or usage by, physically handicapped persons including all educational and instructional facilities of the state.

39-3204. Responsibility for administration and enforcement of act. The administrator for the division of public works of the state of Idaho is responsible for the administration and enforcement of this act.

39-3205. Rules and regulations. The administrator for the division of public works shall prescribe such rules and regulations as are deemed necessary to carry out the requirements of this act, subject to the provision of chapter 52, title 67, Idaho Code.

39-3206. Construction permits -- Administrator's approval.

(1) Effective with the passage of this act, all public buildings and structures enumerated in section 39-3201, Idaho Code, to be constructed, shall require construction permits issued by either city or county officials, as applicable, and such permit shall be contingent upon approval of the administrator or local contracting authority for compliance with the standards prescribed in section 39-3203, Idaho Code. In each case the application for approval shall be accompanied by the plans and full, complete and accurate specifications, which shall comply in every respect with any and all requirements prescribed by the department.

(2) Where state funds are utilized for any building or facility subject to this act, no contract shall be awarded until the administrator or local contracting authority has issued written approval stating that the plans and specifications comply with the intent of this act.

39-3207. Elevators.

(1) All new elevators in public buildings or facilities after the effective date of this act shall have braille symbols and raised arabic numerals corresponding to the numerals on the elevator buttons embossed immediately to the right thereof.

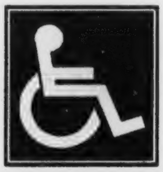
(2) All new door casings on all elevator floors after the effective date of this act shall have the number of the floor on which the casing is located embossed in braille symbols and raised arabic numerals on both sides at a height of forty-two inches (42") from the floor.

39-3208. Other special facilities.

(1) When a building contains special toilet facilities usable by a person in a wheelchair or otherwise handicapped, a sign indicating the location of such facilities shall be posted in the building directory, main lobby, or at any entrance specially used by handicapped persons.

(2) When a building contains an entrance other than the main entrance which is ramped or level for use by handicapped persons, a sign showing its location shall be posted at or near the main entrance which shall be visible from the adjacent public sidewalk or way.

39-3209. Physically handicapped symbol. The following figure, white on a blue background, shall be used as the physically handicapped symbol, which shall be prominently displayed at all entrances to public property, buildings and facilities which provide for access and use by the physically handicapped. (See symbol below.)



39-3210. Failure to obtain approval -- Misdemeanor -- Penalty. Any person responsible for the construction of a building or structure failing to obtain approval of the administrator or local contracting authority for such pursuant to the provisions of this act shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than three hundred dollars ($300). Each day such violation is committed or permitted to continue, shall constitute a separate offense and the offender shall be punished as such hereunder, provided, failure of the administrator or his authorized representative to act upon any application favorably or unfavorably within thirty (30) days after said application's submission to the administrator or local contracting authority shall constitute approval by the administrator or local contracting authority; provided further, that the administrator may delegate authority to grant approval under this section to any qualified building inspector of any municipality or county within the state.

TITLE 39, CHAPTER 55
CLEAN INDOOR AIR

39-5501. Legislative intent. The intent of this chapter is to protect the public health, comfort and environment and the rights of nonsmokers to breathe clean air by restricting smoking in public places and at public meetings to designated smoking areas.

39-5502. Definitions. As used in this chapter:

(1) "Public meeting" means all meetings open to the public.

(2) "Public place" means any enclosed indoor area used by the general public including but not limited to restaurants with a seating capacity of thirty (30) or more customers, retail stores, grocery stores and stores which sell food primarily for off-site consumption, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms.

(3) "Smoking" includes carrying a lighted cigar, cigarette, pipe, or any other matter or substance which contains tobacco.

(4) "Smoking area" means a designated area in which smoking is permitted.

39-5503. Prohibitions -- Exceptions.

(1) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(2) The following may be designated as smoking areas in their entirety:

(a) When an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;

(b) Bars; and

(c) Bowling alleys.

39-5504. Designated smoking areas.

(1) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(2) Where smoking areas are designated, a "good faith" effort shall be made to minimize the effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this chapter shall be considered met if one side of the room is reserved and posted as a no smoking area.

39-5505. Smoking in elevators prohibited. Notwithstanding any other provision of this chapter or any other statute, or county or city ordinance, no person shall smoke in any elevator generally accessible to the public. Signs indicating that smoking is prohibited shall be conspicuously posted in each elevator and at each entrance to an elevator car or bank of elevators.

39-5506. Responsibilities of proprietors.

(1) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by posting appropriate signs designating smoking and nonsmoking areas.

(2) Failure to post signs shall not be construed as indicating the area to be either smoking or nonsmoking.

39-5507. Violations. Any person who violates any of the provisions of this chapter is guilty of an infraction and is subject to a fine not to exceed fifty dollars ($50.00). Any violation may be reported to a law enforcement officer.

39-5508. Rules and regulations. The director of the Idaho department of health and welfare shall adopt rules and regulations necessary, reasonable and consistent with the intent of this chapter to implement the provisions of this chapter. The director may, upon request, waive the provisions of said rules and regulations if it is determined that there are compelling reasons to do so and a waiver will not significantly affect the health and comfort of nonsmokers.

39-5509. Other statutes not affected. The provisions of this chapter shall not be deemed to amend, modify or repeal sections 18-5904, 18-5905 and 18-5906, Idaho Code, relating to no smoking during public meetings.

TITLE 50, CHAPTER 3
POWERS

50-341. Competitive bidding -- Application of law.

A. The following provisions relative to competitive bidding apply to all cities of the state of Idaho, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or amending the provisions of any statute, nor preventing the city from doing any work by its own employees.

B. The word "expenditure" shall mean the granting of a contract, exclusive franchise or authority to another by the city, and every manner and means whereby the city disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any city employee, official, agent, or for the performance of personal services to the city, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government.

C. When the expenditure contemplated exceeds five thousand dollars ($5,000) but not twenty-five thousand dollars ($25,000), the city shall obtain price or cost quotations from at least three (3) responsible vendors in the business of supplying such goods or services. To enhance small business bidding opportunities, the city shall seek a minimum of three (3) price quotations from registered vendors having a significant Idaho economic presence as defined in section 67-2349, Idaho Code. If the city finds that it is impractical or impossible to obtain three (3) quotations for the proposed transaction, the city may acquire the property in any manner the city deems best. The city shall then procure the goods or services from the responsible vendor quoting the lowest price. When the expenditure contemplated exceeds twenty-five thousand dollars ($25,000) the expenditure shall be contracted for and let to the lowest responsible bidder. Where both the bids and quality of property offered are the same, preference shall be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence as defined in section 67-2349, Idaho Code.

D. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids. Notice shall be published at least twice, not less than one (1) week apart, in the official newspaper of the city. The notice shall succinctly set forth the project to be done. Any of the following documents shall be made available, upon reasonable deposit, to any interested bidder: bid form, bidder's instructions, contract documents, general and special instructions, drawings and specifications.

E. All bids shall be presented or otherwise delivered under sealed cover to the city clerk, or other bonded agent of the city designated by the city council to receive specific bids, with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains. If the city deems it is in the city's best interest it may require the vendor to provide bid security in one (1) of the following forms:

a. Cash;

b. Cashier's check made payable to the city;

c. A certified check made payable to the city;

d. A bidder's bond executed by a qualified surety company, made payable to the city.

F. The security, if required by the city, shall be an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is inclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the city.

G. Any bid received by the city may not be withdrawn after the time set in the notice for opening of bids. All bids received must be opened at the time and place set in the notice inviting bids, and no person shall be denied the right to be present at the opening of bids.

H. If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the city and the proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

I. The city may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the city council awards the contract to the next lowest responsible bidder, the amount of the lowest responsible bidder's security shall be applied by the city to the difference between the lowest responsible bid and the next lowest responsible bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used.

J. In its discretion, the city council may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest responsible bids, the city council may accept the one it chooses. If no bids are received, the council may make the expenditure without further compliance with this section.

K. After rejecting bids, the city council may, after finding it to be a fact, pass a resolution declaring that the thing sought to be accomplished by the expenditure can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the thing sought to be accomplished done in the manner stated without further compliance with this section.

L. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or if it is necessary to do emergency work to safeguard life, health or property, or for contracts which do not exceed one (1) year if there is only one (1) vendor for the property to be acquired, the mayor or city manager may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, or declare that there is only one (1) vendor for the property. Upon making the declaration of emergency, any sum required in the emergency may be expended without compliance with this section. Upon declaration of only one (1) vendor, unless the property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in the official newspaper of the city at least ten (10) working days prior to the award of the contract. For purposes of this section, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available, and shall include, but is not limited to:

a. Property required to respond to a life-threatening situation or a situation which is immediately detrimental to the public welfare or property;

b. Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration;

c. Where a sole supplier's item is needed for trial use or testing;

d. Purchase of mass-produced movies, videos, books or other copyrighted materials;

e. Purchase of property for which it is determined there is no functional equivalent;

f. Purchase of public utility services;

g. Purchase of products, merchandise or trademarked goods for resale at a city facility; or

h. Where competitive solicitation is impractical, disadvantageous or unreasonable under the circumstances.

M. In its discretion, the city council may purchase equipment at a public auction, if the council has made a finding that such equipment may be purchased at a lower price.

TITLE 50, CHAPTER 10
FINANCES

50-1019. Purposes for which bonds may be issued -- Limitation on amount. Every city incorporated under the laws of the territory of Idaho or of the state of Idaho shall have power and authority to issue city coupon bonds not to exceed in aggregate at any time, ten per cent (10%) of the assessed full cash valuation [two per cent (2%) of the market value for assessment purposes] of the real and personal property in said city, according to the assessment of the preceding year, for any or all of the purposes specified [in subsections 1 through 10 of this section,] as follows:

1. To provide for constructing, laying out, grading, curbing, draining, sidewalking or otherwise improving streets, alleys, intersections, crossings and crosswalks; and to construct, or aid in the construction of bridges across streams within or contiguous to, or within one (1) mile of the exterior limits of, such city.

2. To provide for the funding, refunding, purchase and redemption of the outstanding indebtedness, bonds may be issued under this section for such purposes, without submission of the question of issuance of such bonds to the electors of the city, when the same can be done to the profit and benefit of such city without incurring any additional liability.

3. To provide for the establishment of hospitals and cemeteries, either within or without the corporate limits of such city.

4. To provide for the purchase, improvement and equipment of lands and buildings thereon, for public parks, monuments, recreation facilities and zoos, either within or without the corporate limits of such city.

5. To provide for the purchase, erection, construction and furnishing of city public libraries.

6. To provide for the establishment of a fire department by the purchase of building sites, buildings, and suitable equipment and apparatus necessary to provide fire protection.

7. To provide for the purchase, acquisition, improvement and equipment of aviation facilities either wholly or partly within or without the corporate limits of such city, or wholly or partly within or without the state of Idaho.

8. To provide for flood control by acquisition and purchase of right-of-way and to establish, alter, enlarge, improve, reconstruct and change the channels of watercourses or any stream, river or body of water within or without the corporate limits of the city.

9. To provide for the acquisition, construction, remodeling, improvement or otherwise, of buildings for public use, together with all necessary appurtenant facilities and equipment, including all necessary land for building sites, either within or without the corporate limits of such city.

10. To provide for the purchase, acquisition, erection and construction of off-street parking sites, structures, buildings, facilities, equipment and appurtenances.

11. To provide for the purchase, acquisition, improvement and equipment of transit systems.

All bonds of any municipality which were issued, sold and delivered to the purchasers thereof prior to April 12, 1967, for the purpose of providing for the building, laying, construction, equipment, extension, enlargement, alteration, improvement or maintenance of storm sewers or sanitary sewerage systems, shall be excluded when determining the aggregate amount of bonds of any city issued hereunder which are outstanding for the purpose of computing the debt limitation provided for in the first paragraph of this section.

50-1026. City bonds -- Ordinance -- Election. Whenever the city council of a city shall deem it advisable to issue the coupon bonds of such city, the mayor and council shall provide therefor by ordinance, which shall specify and set forth all the purposes, objects, matters and things required by section 57-203, Idaho Code, and make provision for the collection of an annual tax sufficient to pay the interest on such proposed bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting the same as required by the constitution and laws of the state of Idaho.

The ordinance shall also provide for holding an election, of which thirty (30) days['] notice shall be given in the official newspaper of the city. Such election shall be conducted as other city elections. The voting at such elections must be by ballot, and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of .... dollars for the purpose stated in Ordinance No. .....," and "Against issuing bonds to the amount of .... dollars for the purpose stated in Ordinance No. ....." If at such election, held as provided in this chapter, two[-]thirds (2/3) of the qualified electors voting at such election, assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, such bonds shall be issued in the manner provided by the laws of the state of Idaho.

TITLE 50, CHAPTER 14
CONVEYANCE OF PROPERTY

50-1405. Transfer by exchange or gift. Real and personal property may be exchanged hereunder for other property if the consideration received by said city shall be deemed adequate by the council, provided, however, that aside from the provisions of section 50-1403, Idaho Code, any city of the state of Idaho may by a vote of one-half (1/2) plus one (1) of the members of the full council, by ordinance duly enacted, authorize the transfer or conveyance of any real or personal property owned by such city to the government of the United States, any county, the state of Idaho, the University of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any school or library district, or to any community college district organized under the provisions of chapter 21, title 33, Idaho Code, any recreation district organized under the provisions of chapter 43, title 31, Idaho Code, in which said city is located, and authorize the transfer or conveyance of its cemetery and endowment, or any funds or indebtedness pertaining thereto, to a cemetery maintenance district organized under the laws of this state for public use or any tax supported governmental unit, with or without any consideration accruing to said city, when in the judgment of said councilmen it is for the best interest of such city that said transfer or conveyance be made.

TITLE 57, CHAPTER 1
PUBLIC DEPOSITORY LAW

57-101. Name of act. This chapter may be cited as the "Public Depository Law."

57-102. Scope of act. This chapter is designed to safeguard and protect the funds of all political subdivisions and of all municipal and quasi-municipal corporations of the state, having power to levy taxes or assessments, now existing or hereafter created and whether organized under the general laws or any special law of the state.

57-103. Definitions. In this chapter, unless the context otherwise requires, words and phrases shall have the meanings defined in the sections following.

57-104. Depositing unit. Every municipal and quasi-municipal corporation, recreation district, improvement district, school district, or governmental unit, of every kind, character or class, now or hereafter created or organized, and authorized by law to levy taxes or special assessments, for which the county treasurer does not act as treasurer, and every county, is a depositing unit: provided, that as to any such depositing unit as herein defined the moneys of which may at any time be in the custody, charge or possession of any county treasurer or tax collector, the county shall be deemed to be the depositing unit with respect to such moneys while the same so remain in such custody, charge or possession, and also of all moneys in the custody, charge or possession of any county treasurer or tax collector for the credit of any school district or other political subdivision of a county authorized by law to levy taxes or special assessments and not herein defined as a "depositing unit."

The board of control or other agency created by or as a result of contracts entered into under the authority of federal and state statutes pursuant to which such board or other agency acts as the operating agent for one or more irrigation districts within the state of Idaho, including the board of control of the Boise Project as created by the respective contracts entered into by and between the United States and the New York irrigation district, Nampa & Meridian irrigation district, Boise-Kuna irrigation district, Wilder irrigation district, in the state of Idaho, and the Big Bend irrigation district in the state of Oregon, under the provisions of the Act of Congress of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto, and particularly under the provisions of section 4 of the Act of Congress of December 5, 1924, (43 Stat. 672, 701, now sections 500 and 501 of chapter 12, title 43 of the United States Code Annotated) [U.S.C., tit. 43, YSMYSM 500, 501], all generally referred to as the Reclamation Law, shall also be deemed to be a depositing unit within the meaning and for the purposes of this chapter, (being the public depository law) with boundaries coinciding with those of the irrigation districts in this state for which said board of control, or other agency, now or hereafter acts as operating agent, and as such shall also be deemed to be located in all counties in the state in which all or any part of such irrigation district or districts are located, and all moneys coming into the possession of such board of control, or such other agency, are public moneys and may be deposited in bank, under the provisions of this chapter, in the name of such board, or other agency.

57-105. Public moneys. "Public moneys" are all moneys coming into the hands of any treasurer of a depositing unit, and in the case of any county shall also include all moneys coming into the hands of its tax collector or public administrator.

57-106. Supervising board. "Supervising board" is the official governing body of a depositing unit.

57-107. Treasurer. "Treasurer" is the official custodian of public moneys as defined in this chapter.

57-108. Auditor. "Auditor" is the officer of a depositing unit charged by law or by ordinance or resolution of the supervising board with the duty of checking the accounts of the treasurer.

57-109. Depositing unit in two or more counties -- Designation of auditor. If any depositing unit as defined in this chapter, or any part thereof, is located or deemed to be located in two (2) or more counties of the state, then the county auditor of whichever one of such counties as is from time to time designated by the supervising board of such depositing unit, and he alone, shall have, exercise and be vested with all the rights, powers and duties with respect to such depositing unit and the whole thereof, as a county auditor has or exercises under the provisions of this chapter with respect to depositing units located entirely in his own county.

57-110. Designated depository. "Designated depository" is any national bank, state bank, trust company, federal savings and loan association, state savings and loan association, federal credit union or state credit union, located in the state and designated as a depository by the supervising board.

57-111. Financial institutions eligible as depositories -- Certain funds of irrigation districts under section 43-118, Idaho Code. Any national bank, state bank, trust company, federal savings and loan association, state savings and loan association, federal credit union or state credit union, located within the geographical boundaries of any depositing unit, may become a depository of the public funds of such depositing unit by making application therefor to its supervising board and may under the provisions of section 57-130, Idaho Code, become the depository of other depositing units within the state.

Provided, that moneys which have been or shall be hereafter derived by irrigation districts organized under and by virtue of the provisions of section 43-118, Idaho Code, from the sale of coupon bonds for the payment of interest on bonds outstanding as provided by chapter 5, title 43, Idaho Code, may be deposited in a depository designated within the state of Idaho as provided by this chapter, or in such other depository within or without the state of Idaho as shall be designated by resolution of the board of directors of the irrigation district, and upon such terms and conditions as shall be agreed upon by the directors of the irrigation district and the purchasers of the outstanding bonds: provided, however, that the funds available as aforesaid shall in no manner be dissipated or used for any purpose other than the payment of interest on outstanding bonds.

57-111A. Treasurer of depositing unit shall not deposit money in any bank or trust company which has failed to pay all state and local taxes. The treasurer of a depositing unit shall not deposit moneys of a depositing unit in a financial institution which has failed to pay all state and local taxes it owes, including corporate income or franchise taxes upon its corporate income or franchise, sales and use taxes upon its purchases of tangible personal property, and real and personal property taxes upon property owned or leased by such financial institution.

57-113. Report on capital and surplus. Every financial institution designated as a public depository and holding any deposit of public funds of any depositing unit under the provisions of this chapter shall, on or before beginning to hold such deposits, file with the treasurer and the supervising board of each such depositing unit whose deposit it so holds, the affidavit of one of its officers showing the amount of the capital stock and surplus or reserves and unallocated or undivided earnings, as applicable, of such institution. In the event that such institution has such an affidavit on file with the treasurer and supervising board of each relevant depositing unit on the effective date of this section, such affidavit or affidavits shall satisfy the requirement of this section until January 31 of the year next following the effective date of this act. Such affidavits shall be effective for the purposes of this section to and including January 31 next following the date of their filing, but no longer, and, on or before that date, if such institution is to continue as a designated public depository under this chapter, a like affidavit shall be filed in like manner for the succeeding year. No such institution shall receive deposits from nor act as depository for the public funds of any depositing unit unless and until an affidavit as is herein required and which still continues in effect is on file with the treasurer and the supervising board of such depositing unit in accordance with this section.

57-127. Deposit of public funds -- Duties of treasurer and supervising board. Except where the public moneys of a depositing unit in the custody of the treasurer at any one (1) time are less than one thousand dollars ($1000), the treasurer shall deposit, and at all times keep on deposit, subject to the provisions of this law, in designated depositories, all public moneys coming into his hands, and it is hereby made the duty of said supervising board not less than once every six (6) months to certify to the treasurer the capital and surplus or reserves and unallocated or undivided earnings, as applicable, of each public depository, a copy of which certificate shall immediately be served on the treasurer by the supervising board or its clerk; provided, that with the approval of the supervising board of the depositing unit, the treasurer is authorized and empowered to invest surplus or idle funds of the depositing unit in investments permitted by section 67-1210, Idaho Code, and interest received on all such investments, unless otherwise required by law, shall be paid into the general fund of the depositing unit: and provided further, that as to all public moneys in the custody of the treasurer of a depositing unit for which there is no legal depository available under this chapter, it shall be the duty of the supervising board of the depositing unit to designate and place for the safekeeping of such public moneys, and until such designation it shall be the duty of the treasurer to deposit such excess sums on special deposit in any public depository, and the expense of such service shall be borne by the depositing unit.

57-127A. Deposit for safekeeping -- Responsibility. The treasurer may deposit for safekeeping with a designated depository or a federal reserve bank any bonds, notes, bills, debentures, obligations, or certificates of indebtedness in which the moneys of the taxing unit or its agencies are invested pursuant to law; provided the treasurer shall take from the designated depository a receipt for the securities deposited. A treasurer may accept securities in authorized book entry form. The treasurer shall not be responsible for securities so deposited until they are withdrawn by the treasurer from the designated depository, except insofar as a violation by the treasurer of the prudent man investment rule contributes to any loss.

57-128. Designation of depository. The supervising board shall designate one or more financial institutions within the boundaries of the depositing unit which are qualified public depositories as defined by section 57-110, Idaho Code, and which is in compliance with section 57-113, Idaho Code, as depository or depositories for the moneys required to be kept by the treasurer. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of public funds of any depositing unit in any public depository, exceed at any one (1) time in the aggregate the total of the capital and surplus or reserves and unallocated or undivided earnings, as applicable, of such public depository. In the event that any financial institution has been designated as a depository under this chapter, such designation shall continue in force until revoked by the supervising board of the depositing unit.

57-130. Deposit in financial institutions outside of depositing unit. Where there are no approved depositories in the depositing unit, or where the money in the treasury exceeds the amount which the designated depositories in the depositing unit are willing to accept, the said excess moneys may be deposited in financial institutions outside of the depositing unit, but within the state of Idaho, which may be designated by the supervising board under the same conditions and subject to the same requirements as if in the depositing unit, and where the money in the treasury exceeds the amount which all designated depositories in the state are willing to accept, such excess may in that event and not otherwise, be deposited in banks outside the state, which banks shall be designated by the supervising board under the same conditions and subject to the same requirements as for designated depositories in the depositing unit.

57-131. Deposits subject to payment on demand. All deposits in public depositories shall be demand deposits or deposits in accounts upon which negotiable orders of withdrawal may be written, or in similar transaction deposit accounts except for deposits of surplus or idle funds which the said depositing units are authorized to make under section 57-127, Idaho Code, with the approval of their respective supervising boards. The term "surplus or idle funds" shall mean the excess of available moneys in the public treasury, including the reasonably anticipated revenues, over and above the reasonably anticipated expenditures chargeable to those moneys, taking into account the dates at which such revenues and expenditures may be expected to occur, the charges of expenses to revenues being done in such a manner as to produce the maximum amount of excess. This definition shall not apply to idle funds in the state treasury, which funds shall be as defined in section 67-1210, Idaho Code.

57-132. Deposits by tax collector and public administrator. It is hereby made the duty of the tax collector and public administrator of every county of this state to deposit any and all sums of money coming into his hands by virtue of his office in a depository designated by the supervising board under the provisions of this chapter, and any such moneys so deposited shall be a part of the public moneys as defined in this chapter, but shall remain subject to withdrawal by such tax collector or public administrator so depositing the same. Such sums while so on deposit in said depository, shall be held in separate accounts respectively designated as "Tax Collector's Account" and "Public Administrator's Account."

57-133. Demand deposits -- Payment of service charges -- Interest on time deposits. A public depository may pay interest to the depositing unit upon demand deposits, deposit accounts upon which negotiable orders of withdrawal may be written, and similar transaction deposit accounts made with it by such depositing unit as allowed by state or federal law.

The supervising boards of all depositing units are authorized in their discretion and from time to time to adopt, amend, and/or repeal rules and regulations not inconsistent with other provisions of this act providing for the payment by such depositing unit to its designated depository or depositories of reasonable charges for their services rendered in acting as such depositories. The rate of such charges and the terms and conditions thereof shall be fixed by such supervising boards in such rules and regulations, and shall be uniformly applicable to all designated depositories for such depositing unit under like circumstances and conditions. Such charges shall be allowed and paid from the funds of such depositing unit available for the payment of its general expenses as other claims against said funds are allowed and paid.

Every public depository shall pay interest upon time deposits made by the public depositing unit at rates not less than those paid to investors for deposits of the same amount and under like circumstances and conditions; provided, however, that such time deposits shall bear interest at a rate not in excess of the maximum rate permitted by any applicable governmental regulation.

57-133B. Unlawful disclosure of information relating to designated depositories -- Penalty. Any information obtained from any designated depository by the treasurer of a depositing unit shall be subject to disclosure according to chapter 3, title 9, Idaho Code, provided that federal or state examiners shall have a lawful right to examine said designated depository or to proper officials legally empowered to investigate criminal charges relating to said designated depository shall have a right to examine said depository. Any public official who violates any provision of this section by improperly disclosing information shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally or who misuses such information as he may have obtained shall be guilty of a felony.

57-134. Accounting for moneys deposited. The treasurer shall require, and it is hereby made the duty of every such depository to keep accurate accounts of all such moneys deposited with it, showing the amount deposited, and when deposited, and to render, at the beginning of each and every month, to the treasurer and auditor a statement, in duplicate, showing the daily balance of the public moneys of the depositing unit held by it during the month next preceding.

57-135. Treasurer's monthly report. It is the duty of the treasurer to file a report in writing, verified by his affidavit, with the auditor on the last business day of each and every month, showing exactly how much cash he has in the treasury and in what bank or banks deposited, and if in more than one, how much in each, which reports shall be examined by the supervising board at the next regular session following the filing of the same, and compared by it with the books of the treasurer at least twice a year, and if it shall find that the treasurer has wilfully made any false statement therein he may be suspended or removed from office.

57-137. Responsibility for loss through insolvency of bank. Where the treasurer in accordance with the terms and provisions of this chapter has deposited and kept on deposit any public moneys in designated depositories, he shall not be liable personally or upon his official bond for any public moneys that may be lost by reason of the failure or insolvency of any such depository.

57-138. Liability of county auditor under public depository law. The county auditor shall not be liable personally or upon his official bond for any losses by reason of his acts under the provisions of the public depository law, except in so far as such acts are in bad faith and have resulted in such loss.

57-139. Offenses by treasurer -- Penalty. The making of profit, directly or indirectly, by the treasurer of any depositing unit out of any money in the treasury, belonging to the depositing unit, the custody of which the treasurer is charged with, by loaning or otherwise using it, or depositing the same in any manner contrary to law, or the removal by the treasurer or by his consent, of such moneys, or a part thereof, out of the vault or safe of the treasurer's department, after the same shall have been provided by the depositing unit, or out of any legal depository of such moneys, except for the payment of warrants, legally drawn, or for the purpose of depositing the same, under the provisions of this law, in any designated depositories, shall constitute a felony, and on conviction thereof, shall subject the treasurer to imprisonment in the state penitentiary for a term of not exceeding two (2) years, or a fine not exceeding five thousand dollars ($5,000), or to both such fine and imprisonment, and the treasurer shall be liable upon his official bond for all profits realized from such unlawful use of such funds.

57-140. Neglect of treasurer -- Penalty. If the treasurer of any depositing unit shall wilfully fail or refuse at any time to do or perform any act required of him by the provisions of this law relative to the deposit of public funds, he shall be guilty of a misdemeanor, and upon conviction thereof, he shall be sentenced to pay a fine not exceeding $5000.

57-141. Bribery of treasurer a felony -- Penalty. The offering, or giving, directly or indirectly, by designated depository, or by any officer or stockholder thereof, or by any other person or persons in its or their behalf, or by its or their knowledge, acquiescence or authority, or in its or their interest, to the treasurer of any depositing unit, of any gift, compensation, reward or inducement, with the intent or for the purpose of inducing said treasurer to deposit public funds in any designated depository contrary to any law of this state, shall constitute a felony, and shall, upon conviction thereof, subject the person offending to imprisonment in the state penitentiary for a period not exceeding two (2) years, or to a fine not exceeding five thousand dollars ($5,000), or to both such fine and imprisonment.

57-142. Expenses -- Audit and payment. Any expense incurred in carrying out the provisions of the public depository law shall be audited by the supervising board and paid out of the current revenues of the depositing unit.

57-143. Inspection of treasurer's office. The supervising board or any person authorized by it in writing, may, during business hours, in the presence of the treasurer or his deputy or clerk, inspect and examine the books of account in the office of its treasurer and all contracts, writings, securities and other papers belonging to the depositing unit or pertaining to the business thereof, held by the treasurer, and may inspect and count the moneys belonging to the county and the several funds thereof in the custody of the treasurer; and it is hereby made the duty of the treasurer to furnish all reasonable facilities for the purpose.

57-144. Inspection of auditor's office. The supervising board or any person authorized by it in writing, may, during business hours, in the presence of the county auditor or his deputy, inspect and examine the contracts, writings, securities, bonds and other papers belonging to the depositing unit, or pertaining to the business thereof in the custody of the auditor, and it is hereby made the duty of the county auditor to furnish all reasonable facilities for the purpose.

57-145. Deposit of funds by county officers other than treasurer pending deposit with treasurer -- Manner of depositing -- Duties and liabilities of officer and receiving depositories. All public and other moneys and funds in the official custody of any county officer other than the county treasurer as such and as ex officio public administrator and ex officio tax collector, including checks, drafts and all other instruments for the payment of money acceptable for deposit in banks, may, pending the deposit thereof with the county treasurer or other officer or person entitled by law to receive the same, be deposited on general deposit with interest in any designated depository in such officer's county, provided that such account is insured by the federal government and that said funds are readily accessible for distribution according to law. All interest accrued shall be paid into the county current expense fund, or if there be no designated depository in said county, then in any designated depository in the state of Idaho, to the credit of such officer in his official capacity and subject to payment on demand on the check of such officer or that of his successor in office in like capacity.

No designated depository accepting deposits hereunder shall have any duty or obligation whatever as to the disposition of such funds by the officer depositing the same, nor be liable in any respect for such officer's misappropriation, misapplication or wrongful use or disposal thereof, nor for his failure to deposit the same with the county treasurer or other officer or person entitled to receive the same at the time and in the manner provided by law; but nothing herein shall be construed as in any wise relieving such officer of the duty of paying over such funds to the county treasurer or other officer or person entitled to receive the same at the time and in the manner fixed by law, nor of any other duty or liability with respect thereto, except that such officer shall not be liable either personally or on his official bond for the nonpayment by any designated depository of funds deposited with it pursuant to the provisions of this act.

TITLE 57, CHAPTER 6
SINKING FUNDS --
MISCELLANEOUS PROVISIONS

57-601. Investment of sinking fund -- Purchase of outstanding bonds. The treasurer of the state of Idaho, the city council or city commissioner of every city, the board of trustees of every village, the board of county commissioners of every county, the board of commissioners of every highway district, the board of trustees of every school district, the board of commissioners of every drainage district, the board of directors of every irrigation district, the board of trustees of every library district, and the governing board of every taxing district within the state of Idaho, whenever there is in any sinking fund, now existing or hereafter created by authority of the laws of the state, an amount in excess of the requirements to pay bonds maturing within the current year, shall, so far as practicable, invest the same in time certificates of deposit of public depositories, interest[-]bearing general obligation bonds, tax anticipation notes or treasury certificates lawfully issued by the United States of America, the state of Idaho, or any city, county, highway district, or school district in the state of Idaho. The state or any city, village, county, highway district, school district, drainage district, irrigation district, library district, or any other taxing district in the state of Idaho may purchase for the sinking fund any bonds originally issued or assumed by it and keep the same alive in the sinking fund and resell the same, or any other investments of the sinking funds, when it may be deemed advisable to make more advantageous investments or to provide means for the redemption of maturing bonds; provided, that if any bonds so purchased are not necessary for the protection of any such sinking fund the governing board shall cause any such bonds together with the interest coupons thereon to be cancelled; provided, that whenever there is in any sinking fund of any irrigation district, now existing or hereafter created by authority of the laws of the state, an amount of funds in excess of the requirements to pay bonds maturing within the current year, such irrigation district may invest such excess moneys in any of the anticipation notes or warrants or other interest[-]bearing securities of such irrigation district; provided, further that any county hospital board may invest in short term interest[-]bearing bonds and other evidences of indebtedness of the United States, time certificates of deposit of public depositories or savings accounts insured by the federal deposit insurance corporation, to the extent of such insurance, whenever there are current expense funds in excess of requirements for the current year when it may be deemed advisable to put surplus current funds to work.

57-601A. Income from investment of sinking fund. Any income or profit that may be realized from the investment of the funds referred to in section 57-601, Idaho Code, shall, as the same are received, be deposited to the sinking fund from which such excess funds were invested, and in no event shall any of such said income or profits from said investment be deposited to the general fund or any operating fund of such investing entity. Any member of any taxing board or any disbursing officer described in section 57-601, Idaho Code, who fails, refuses, or neglects to return the interest or income from investments to the proper sinking fund shall be proceeded against in the manner prescribed by section 57-603, Idaho Code.

TITLE 59, CHAPTER 2
PROHIBITIONS AGAINST CONTRACTS WITH OFFICERS

59-201. Officers not to be interested in contracts. Members of the legislature, state, county, city, district and precinct officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.

59-201A. Remote interests.

(1) A public officer shall not be deemed to be interested in a contract, within the meaning of section 59-201, Idaho Code, if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the body of which he is an officer and noted in the official minutes or similar records prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section, "remote interest" means:

(a) That of a nonsalaried officer of a nonprofit corporation; or

(b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; or

(c) That of a landlord or tenant of a contracting party; or

(d) That of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.

(2) Although a public official's interest in a contract may be only remote, a public official shall not influence or attempt to influence any other officer of the board of which he is an officer to enter into the contract. Violation of the provisions of this subsection shall be a misdemeanor as provided in section 59-208, Idaho Code. Any contract created or entered into in violation of the provisions of this subsection shall be void.

59-202. Officers not to be interested in sales. State, county, district, precinct and city officers must not be purchasers at any sale nor vendors at any purchase made by them in their official capacity.

59-203. Prohibited contracts voidable. Every contract made in violation of any of the provisions of the two (2) preceding sections may be avoided at the instance of any party except the officer interested therein.

59-204. Dealing in warrants prohibited. The state treasurer and state controller, the several county, city, district or precinct officers of this state, their deputies and clerks, are prohibited from purchasing or selling, or in any manner receiving to their own use or benefit, or to the use or benefit of any person or persons, whatever, any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state, or any county or city thereof, except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy or clerk, and evidences of the funded indebtedness of such state, county, city, district or corporation.

59-205. Affidavit of nonviolation a prerequisite to allowance of accounts. Every officer whose duty it is to audit and allow the accounts of other state, county, district, city or precinct officers, must, before allowing such accounts, require each of such officers to make and file with him an affidavit that he has not violated any of the provisions of this chapter.

59-206. Provisions of chapter violated -- Disbursing officer not to pay warrants. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the state, county, city or district, when the same has been purchased, sold, received or transferred contrary to any of the provisions of this chapter.

59-207. Suspension of settlement or payment -- Prosecution of offenders. Every officer charged with the disbursement of public moneys, who is informed by affidavit that any officer whose account is to be settled, audited, or paid by him, has violated any of the provisions of this chapter, must suspend such settlement or payment, and cause such officer to be prosecuted for such violation.

59-208. Violation. A violation of the provisions of this chapter is a misdemeanor and shall be punished by a fine not exceeding one thousand dollars ($1,000), or incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration.

59-209. Noncompensated public official -- Exception. When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section 18-1361A, Idaho Code.

TITLE 59, CHAPTER 4
OATH OF OFFICE

59-401. Loyalty oath -- Form. Before any officer elected or appointed to fill any office created by the laws of the state of Idaho enters upon the duties of his office, he must take and subscribe an oath, to be known as the official oath, which is as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of (insert office) according to the best of my ability."

59-402. Time of taking oath. Whenever a different time is not prescribed by law the oath of office must be taken, subscribed and filed within ten (10) days after the officer has notice of his election or appointment, or before the expiration of fifteen (15) days from the commencement of his term of office, when no such notice has been given.

59-403. Before whom oath taken. Except when otherwise provided, the oath may be taken before any officer authorized to administer oaths.

59-404. County officers -- Time and place of taking oath. The oath of office of county elective officers shall be taken by the county commissioners before the county recorders of their respective counties, on the second Monday of January succeeding each general election, and on the same day the other county officers shall take and subscribe the official oath before the chairman of the board. Provided, however, in the event of inability to appear for the taking of the oath, for any reason, a duly elected county official may be sworn in and may subscribe to the oath, wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths, as prescribed in section 55-705 and may take and subscribe the oath of office as provided for in section 59-401 of this title and chapter, and the oath of office shall have the same force and effect as though it were taken before the county commissioners as herein provided.

59-405. Where oath filed. Every oath of office, certified by the officer, before whom the same was taken, must be filed within the time required by law, except when otherwise specially directed, as follows:

1. The oath of all officers whose authority is not limited to any particular county, in the office of the secretary of state.
2. The oath of all officers elected or appointed for any county, district or precinct, in the offices of the recorder of their respective counties. The oath for school district trustees shall be filed in the manner prescribed by section 33-501, Idaho Code.

TITLE 59, CHAPTER 7
ETHICS IN GOVERNMENT

59-701. Short title. This act shall be known and may be cited as the "Ethics in Government Act of 1990."

59-702. Policy and purpose. It is hereby declared that the position of a public official at all levels of government is a public trust and it is in the public interest to:

(1) Protect the integrity of government throughout the state of Idaho while at the same time facilitating recruitment and retention of personnel needed within government;

(2) Assure independence, impartiality and honesty of public officials in governmental functions;

(3) Inform citizens of the existence of personal interests which may present a conflict of interest between an official's public trust and private concerns;

(4) Prevent public office from being used for personal gain contrary to the public interest;

(5) Prevent special interests from unduly influencing governmental action; and

(6) Assure that governmental functions and policies reflect, to the maximum extent possible, the public interest.

59-703. Definitions. For purposes of this chapter:

(1) "Official action" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or nonaction by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.

(2) "Business" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.

(3) "Business with which a public official is associated" means any business of which the public official or member of his household is a director, officer, owner, partner, employee or holder of stock over five thousand dollars ($5,000) or more at fair market value.

(4) "Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;

(c) Any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;

(d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

(5) "Economic gain" means increase in pecuniary value from sources other than lawful compensation as a public official.

(6) "Governmental entity" means:

(a) The state of Idaho and all agencies, commissions and other governmental bodies of the state; and

(b) Counties and municipalities of the state of Idaho, all other political subdivisions including, but not limited to, highway districts, planning and zoning commissions or governmental bodies not specifically mentioned in this chapter.

(7) "Members of a household" means the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.

(8) "Person" means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agent or servant thereof, or a governmental entity.

(9) "Public office" means any position in which the normal and usual duties are conducted on behalf of a governmental entity.

(10) "Public official" means any person holding public office in the following capacity:

(a) As an elected public official meaning any person holding public office of a governmental entity by virtue of an elected process, including persons appointed to a vacant elected office of a governmental entity, excluding members of the judiciary; or

(b) As an elected legislative public official meaning any person holding public office as a legislator; or

(c) As an appointed public official meaning any person holding public office of a governmental entity by virtue of formal appointment as required by law; or

(d) As an employed public official meaning any person holding public office of a governmental entity by virtue of employment, or a person employed by a governmental entity on a consultive basis.

59-704. Required action in conflicts. A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion. In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a public official, a public official may seek legal advice from the attorney representing that governmental entity or from the attorney general or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions of this chapter. If the legal advice is that a real or potential conflict may exist, the public official:

(1) If he is an elected legislative public official, he shall disclose the nature of the potential conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.

(2) If he is an elected state public official, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall file such statement with the secretary of state prior to acting on the matter. A public official may seek legal advice from the attorney representing that agency or from the attorney general or from independent counsel. The elected public official may then act on the advice of the agency's attorney, the attorney general or independent counsel.

(3) If he is an appointed or employed state public official, he shall prepare a written statement describing the matter to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney general or from the attorney representing that agency. The public official may then act on the advice of the attorney general, the agency's attorney or independent counsel.

(4) If he is an elected public official of a county or municipality, he shall disclose the nature of a potential conflict of interest prior to acting on a matter and shall be subject to the rules of the body of which he/she is a member and take all action required by the rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue. The public official may obtain an advisory opinion from the attorney general or the attorney for the county or municipality or from independent counsel. The public official may then act on the advice of the attorney general or attorney for the county or municipality or his independent counsel.

(5) If he is an appointed or employed public official of a county or municipality, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney for the appointing authority, or, if none, the attorney general. The public official may then act on the advice of the attorney general or attorney for the appointing authority or independent counsel.

(6) Nothing contained herein shall preclude the executive branch of state government or a political subdivision from establishing an ethics board or commission to perform the duties and responsibilities provided for in this chapter. Any ethics board or commission so established shall have specifically stated powers and duties including the power to:

(a) Issue advisory opinions upon the request of a public official within its jurisdiction;

(b) Investigate possible unethical conduct of public officials within its jurisdiction and conduct hearings, issue findings, and make recommendations for disciplinary action to a public official's appointing authority;

(c) Accept complaints of unethical conduct from the public and take appropriate action.

59-704A. Noncompensated public official -- Exception. When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section 18-1361A, Idaho Code.

59-705. Civil penalty.

(1) Any public official who intentionally fails to disclose a conflict of interest as provided for in section 59-704, Idaho Code, shall be guilty of a civil offense, the penalty for which may be a fine not to exceed five hundred dollars ($500), provided that the provisions of this subsection shall not apply to any public official where the governmental entity on which said official serves has put into operation an ethics commission or board described in section 59-704(6), Idaho Code.

(2) The penalty prescribed in subsection (1) of this section does not limit the power of either house of the legislature to discipline its own members, nor limit the power of governmental entities, including occupational or professional licensing bodies, to discipline their members or personnel. A violation of the provisions of this chapter shall not preclude prosecution and conviction for any criminal violation that may have been committed.

TITLE 59, CHAPTER 10
MISCELLANEOUS PROVISIONS

59-1026. Splitting or separating purchases or work projects to evade competitive bidding -- Civil penalties. It is a violation of this section for any public officer or officers of the state, a political subdivision or a city in this state to split or separate purchases or work projects for the purpose of evading any laws of the state which require competitive bidding for such purchases or work projects when the amount of the anticipated purchase or work project exceeds a specific dollar amount. Any public officer or officers violating this section shall be liable for civil penalties not to exceed five hundred dollars ($500) for each offense.

TITLE 60, CHAPTER 1
CONTRACTS FOR PRINTING -- PUBLICATION OF NOTICES

60-106. Qualifications of newspapers printing legal notices. No legal notice, advertisement or publication of any kind required or provided by the laws of the state of Idaho, to be published in a newspaper, shall be published or have any force or effect, as such, unless the same be published in a newspaper of general interest published in the state of Idaho, and which newspaper if published weekly, has been continuously and uninterruptedly published in the county during a period of seventy-eight (78) consecutive weeks prior to the first publication of the notice, or advertisement, and, if published daily, has been so published as a daily newspaper in the county during a period of twelve (12) consecutive months prior to the first publication of the notice or advertisement; provided that, notwithstanding any other provision of Idaho laws, the term "newspaper of (or having) general circulation," wherever used in Idaho Code as a qualification of newspapers required to be used for the publication of notice, shall mean a "newspaper," as defined in this section, that is published within the boundaries of the governmental entity wherein the notice is required to be published and which newspaper has the largest paid circulation among all newspapers published in that governmental entity as verified by the sworn statement of average total paid or requested circulation for the preceding twelve (12) months that was filed on the annual statement of ownership, management and circulation with the U.S. postal service on the date immediately preceding the date of the required publication of notice; excepting that, where no newspaper is published within the governmental entity required to publish a notice, the term "newspaper of (or having) general circulation" shall mean the newspaper with the largest paid circulation published within any county in which the governmental entity is located, or the newspaper published nearest to the boundaries of the governmental entity; provided, that nothing in this chapter shall invalidate the publication of such notice or advertisement in any newspaper which has simply changed its name, frequency of publication, suspended publication because of an act of God, or public enemy, fire, strike, or other labor dispute, explosion, flood, government prohibition, government requisition of essential property, preferential government orders, breakdown, legal acts of public authorities or other acts beyond the control of the publisher for a period of not to exceed six (6) months, or changed the place of publication from one part of the county to another part thereof, without breaking the continuity of its regular issues for the required length of time: and, provided further, that this chapter shall not apply to counties in which no newspaper has been published for the required length of time: provided the term "Newspaper" as used in this section shall apply only to such newspapers of general interest made up of at least four (4) pages of at least five (5) columns each, printed from type matter or from "slugs" cast upon the linotype or intertype or similar "slug-casting" machine, or by the process known as "offset," or stereotyped forms of at least seventeen and three-fourths (17 3/4) inches depth; or, if smaller pages, then comprising an equivalent amount of type matter, and which shall have at least two hundred (200) bona fide subscribers living within the county in which the newspaper is published at regular intervals and, in no case, less frequently than once a week; provided that a newspaper produced by the process known as mimeographing or similar methods shall not be deemed a legal newspaper for publications of any kind. And provided further, that any duly qualified newspaper, as hereinbefore defined, shall not forfeit its standing as such by reason of the fact that it has suspended publication for all or any part of the period during which the United States has been or shall be engaged in the prosecution of any war, or for one (1) year following the date of the proclamation of the President of the United States declaring that this nation is no longer at war, or the termination of a state of war shall be otherwise established. And if any such newspaper shall resume regular publication within one (1) year from the date when the termination of the state of war shall be so established, it shall then be as fully qualified to publish any legal notice, advertisement, or publication required to be published by the laws of the state of Idaho, as if such newspaper had not suspended regular publication during the above mentioned period of time.

No newspaper shall qualify under this section unless the same shall hold a valid second class mailing permit from the United States Post Office. Any violations of the previous requirements of this section concerning printing of newspapers other than in the governmental entity in which a notice or advertisement is required to be printed are hereby excused and any advertisement published in any such newspapers is hereby validated.

TITLE 63, CHAPTER 2

DEFINITIONS -- GENERAL PROVISIONS

63-201. Definitions. As used for property tax purposes in title 63, chapters 1 through 23, Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Appraisal" means an estimate of property value for property tax purposes.

(a) For the purpose of estimated property value to place the value on any assessment roll, the value estimation must be made by the assessor or a certified property tax appraiser.

(b) For the purpose of estimating property value to present for an appeal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code, the value estimation may be made by the assessor, a certified property tax appraiser, a licensed appraiser, or a certified appraiser or any party as specified by law.

(2) "Bargeline" means those water transportation tugs, boats, barges, lighters and other equipment and property used in conjunction with waterways for bulk transportation of freight or ship assist.

(3) "Cogenerators" means facilities which produce electric energy, and steam or forms of useful energy which are used for industrial, commercial, heating or cooling purposes.

(4) "Collection costs" are amounts authorized by law to be added after the date of delinquency and collected in the same manner as property tax.

(5) "Delinquency" means any property tax, special assessment, fee, collection cost, or charge collected in the same manner as property tax, that has not been paid in the manner and within the time limits provided by law.

(6) "Improvements" means all buildings, structures, fixtures and fences erected upon or affixed to the land, and all fruit, nut-bearing and ornamental trees or vines not of natural growth, growing upon the land, except nursery stock.

(7) "Late charge" means a charge of two percent (2%) of the delinquency.

(8) "Lawful money of the United States" means currency and coin of the United States at par value and checks and drafts which are payable in dollars of the United States at par value, payable upon demand or presentment.

(9) "Manufactured home" means a structure defined as a manufactured home in section 39-4105, Idaho Code.

(10) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

(11) "Operating property" means all rights-of-way accompanied by title; roadbeds; tracks; pipelines; bargelines; equipment and docks; terminals; rolling stock; equipment; power stations; power sites; lands; reservoirs, generating plants, transmission lines, distribution lines and substations; and all immovable or movable property operated in connection with any public utility, railroad or private railcar fleet, wholly or partly within this state, and necessary to the maintenance

and operation of such road or line, or in conducting its business, and shall include all title and interest in such property, as owner, lessee or otherwise. The term does not include personal property exempt from taxation pursuant to section 63-602L, Idaho Code.

(12) "Party in interest" means a person who holds a properly recorded mortgage, deed of trust or security interest.

(13) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.

(14) "Personal property" includes all goods, chattels, stocks and bonds, equities in state lands, easements, reservations, leasehold real properties and all other property which the law defines, or the courts may interpret, declare and hold to be personal property under the letter, spirit, intent and meaning of the law, for the purposes of property taxation. For the purposes of payment and collection of property taxes pursuant to chapter 9, title 63, Idaho Code, collection of delinquency pursuant to chapter 10, title 63, Idaho Code, and seizure and sale of personal property for taxes pursuant to chapter 11, title 63, Idaho Code, personal property includes manufactured homes not declared as real property pursuant to section 63-304, Idaho Code.

(15) "Private railcar fleet" means railroad cars or locomotives owned by, leased to, occupied by or franchised to any person other than a railroad company operating a line of railroad in Idaho or any company classified as a railroad by the interstate commerce commission and entitled to possess such railroad cars and locomotives except those possessed solely for the purpose of repair, rehabilitation or remanufacturing of such locomotives or railroad cars.

(16) "Public utility" means electrical companies, pipeline companies, natural gas distribution companies, or power producers included within federal law, bargelines, and water companies which are under the jurisdiction of the Idaho public utilities commission. The term also includes telephone corporations, as that term is defined in section 62-603, Idaho Code, except as hereinafter provided, whether or not such telephone corporation has been issued a certificate of convenience and necessity by the Idaho public utilities commission.

This term does not include cogenerators, mobile telephone service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company nor does the term "public utility" include companies or persons engaged in the business of providing solely on a resale basis, any telephone or telecommunication service which is purchased from a telephone corporation or company.

(17) "Railroad" means every kind of railway, whether its line of rails or tracks be at, above or below the surface of the earth, and without regard to the kind of power used in moving its rolling stock, and shall be considered to include every kind of street railway, suburban railway or interurban railway excepting facilities established solely for maintenance and rebuilding of railroad cars or locomotives.

(18) "Real property" means land, and all standing timber thereon, including standing timber owned separately from the ownership of the land upon which the same may stand, except as modified in chapter 17, title 63, Idaho Code, and all buildings, structures and improvements, or other fixtures of whatsoever kind on land, including water ditches constructed for mining, manufacturing

or irrigation purposes, water and gas mains, wagon and turnpike toll roads, and toll bridges, and all rights and privileges thereto belonging, or any way appertaining, all quarries and fossils in and under the land, and all other property which the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law, for the purposes of property taxation. Manufactured homes constitute real property when located on taxable land, and after a statement of intent to declare as real property has been recorded, provided said statement has not been revoked. Timber, forest, forest land, and forest products shall be defined as provided in chapter 17, title 63, Idaho Code.

(19) "Record owner" means the person or persons in whose name or names the property stands upon the records of the county recorder's office. Where the record owners are husband and wife at the time of notice of pending issue of tax deed, notice to one (1) shall be deemed and imputed as notice to the other spouse.

(20) "Special assessment" means a charge imposed upon property for a specific purpose, collected and enforced in the same manner as property taxes.

(21) "System value" means the market value for assessment purposes of the operating property when considered as a unit.

(22) "Tax code area" means a geographical area made up of one (1) or more taxing districts with one (1) total levy within the geographic area, except as otherwise provided by law.

(23) "Taxing district" means any entity or unit with the statutory authority to levy a property tax.

(24) "Taxable value" means market value for assessment purposes, less applicable exemptions or other statutory provisions.

(25) "Transient personal property" is personal property, specifically such construction, logging or mining machinery and equipment which is kept, moved, transported, shipped, hauled into or remaining for periods of not less than thirty (30) days, in more than one (1) county in the state during the same year.

(26) "Warrant of distraint" means a warrant ordering the seizure of personal property to enforce payment of property tax, special assessment, expense, fee, collection cost or charge collected in the same manner as personal property tax.

63-215. Legal description and map of boundaries to be recorded.

(1) Any taxing district or urban renewal district which shall be formed or organized hereafter, or which shall change any existing boundaries hereafter, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or as altered, to be recorded with the county recorder and filed with the county assessor in the counties within which the unit is located, and with the state tax commission within ten (10) days following the effective date of such formation, organization or alteration. In the case of fire protection districts, the board of county commissioners approving the boundaries shall be responsible for delivering to the assessor and recorder the map and legal description of the amended district boundaries.

(2) The county assessor, county auditor and state tax commission shall retain on file in their respective offices all copies of legal descriptions of taxing district boundaries and maps filed by the various taxing jurisdictions authorized to impose a levy on property.

(3) The state tax commission shall be responsible for providing copies of uniform tax code area numbers and maps to the county assessor, county auditor and county treasurer and various companies having operating property subject to assessment in the state of Idaho and under the jurisdiction of the state tax commission for assessment and taxation purposes.

(4) Unless otherwise specifically authorized to form with noncontiguous boundaries, or to annex or de-annex properties so as to make noncontiguous boundaries, all taxing districts shall form with and maintain contiguous boundaries.

TITLE 63, CHAPTER 3
ASSESSMENT OF REAL AND PERSONAL PROPERTY

63-301A. New construction roll.

(1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

(a) The name of the taxpayer;

(b) The description of the new construction, suitably detailed to meet the requirements of the individual county;

(c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;

(d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission.

(3) The value shown on the new construction roll may include the value increase from:

(a) Construction of any new structure that previously did not exist; or

(b) Additions or alterations to existing nonresidential structures; or

(c) Installation of new or used manufactured housing that did not previously exist within the county; or

(d) Change of land use classification; or

(e) Property newly taxable as a result of loss of the exemption provided by section 63-602W, Idaho Code.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation.

TITLE 63, CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602. Property exempt from taxation.

(1) Property shall be exempt from taxation as provided in this chapter; provided, that no deduction shall be made in assessment of shares of capital stock of any corporation or association for exemptions claimed under this section, and provided further, that the term "full cash value" wherever used in this act shall mean the actual assessed value of the property as to which an exemption is claimed.

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections 63-602A through 63-602Z, Idaho Code, shall be exempt from taxation hereunder so long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

(3) All exemptions from property taxation claimed under this chapter shall be approved annually by the county board of equalization.

63-602F. Property exempt from taxation. The following property is exempt from taxation:

(1) Possessory rights to public lands;
(2) Mining claims not patented;
(3) All public cemeteries;
(4) All public libraries.

TITLE 63, CHAPTER 8
LEVY AND APPORTIONMENT OF TAXES

63-802. Limitation on budget requests -- Limitation on tax charges -- Exceptions.

(1) Except as provided in subsection (2) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (3) of this section, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; or

(g) A library district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized in section 33-2724, Idaho Code. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section[; or] [(h)](g) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(3) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

63-802A. Notice of budget hearing. Not later than April 30 of each year, each taxing district shall set and notify the county clerk of the date and location set for the budget hearing of the district. If no budget hearing will be held, the county clerk shall be so notified.

63-803. Certification of budgets in dollars.

(1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. The certification to the county commissioners required in this section shall be made

not later than the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than one (1) week. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) For the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

63-804. Filing copy of budget. The council, trustees, board or other governing body of any taxing district shall at the time of certifying the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved and as provided for in section 63-803, Idaho Code, file with the appropriate county commissioners a certified copy of their budget as previously prepared, approved and adopted.

63-807. Levy by new taxing units -- Duties of auditor. Except as otherwise provided by law, no taxing district formed or organized after the first day of January, in any year, shall be authorized to make a levy for that calendar year, nor shall the auditor of any county in which the taxing district may be situated be required to extend any levy on behalf of the taxing district upon the county rolls extended by him for the year. No existing taxing district which shall annex any territory after the first day of January of the current year, shall be authorized to levy a property tax for the year upon the property situated in the annexed territory and the property shall in all respects be taxed as if the annexation had not taken place. However, should any existing school district or school districts divide, consolidate or reorganize after the assessment date in any year, the board of trustees of the divided, consolidated or reorganized school district shall have the power to levy property taxes and certify the levy for the year in the same manner and according to the same boundaries which the separate school districts involved in the division, consolidation or reorganization could have levied property taxes had the division, consolidation or reorganization not taken place.

63-810. Erroneous Levy -- Corrective action.

(1) Whenever the county commissioners have discovered that a levy has been made by unintentional clerical, mathematical or electronic error, in any levy certified by such board, the county commissioners on its own motion may:

(a) If discovered prior to the fourth Monday of November of the year for which the levy is certified, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits.

(b) If discovered after the fourth Monday of November of the year for which the levy is certified, but before January 30 of the succeeding year, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits. The corrected levy shall be applied to the taxable value within each taxing district and the property taxes so applied shall be a perpetual lien on the property, and such property tax levy and tax charge shall supersede all previous incorrect levies and charges made for that year, except that the property tax computed using the corrected levy shall allow a credit for the amount of property taxes previously paid. If additional property tax is owed due to the corrected levy, the county tax collector shall, prior to the fourth Monday in May, mail to the last record owner of any property affected by such erroneous levy a notice of tax correction. The deadline for paying such property tax shall be no later than June 20 of that year. Late charges and interest will be added if full property tax is not paid by June 20 and interest will be calculated from January 1 as provided in section 63-1001, Idaho Code.

(c) The levy correction shall be considered at a hearing held by the county commissioners at which time any taxpayer may appear and be heard upon the issue. Notice of the date, time, place and purpose of such hearing shall be published in a newspaper published in the county, or if there is none, then in a newspaper of general circulation in the county. The notice shall be run once each week for the two (2) weeks preceding the hearing. The hearing shall be held not less than seven (7) days after the first notice is published.

(2) The county commissioners shall submit the corrected levy and a copy of the order to the state tax commission. The state tax commission shall review the corrected levy and take action as required in section 63-809, Idaho Code.

(3) For the purposes of sections 63-701 through 63-710, Idaho Code, and for the purposes of the distributions required in section 63-3638, Idaho Code, the state tax commission, county auditor, and the county commissioners shall use the corrected values and numbers allowed in this section to recompute and correct such distributions by adjusting future distributions to account for any difference. For the purposes of chapters 8 and 10, title 33, Idaho Code, the state department of education shall use the corrected values and numbers allowed in this section.

TITLE 63, CHAPTER 13
MISCELLANEOUS PROVISIONS OF TAX LAW

63-1309. Special taxing district or bond proposal defeated in election bars subsequent elections for specified time -- Exception -- Board of education may conduct election -- Municipalities, water or sewer districts may conduct bond election. If any election has been held for the formation of any special taxing district, or for the approval of any bond issue or other proposal which would have resulted in a property tax levy, and the proposal submitted at such election was defeated, no subsequent election shall be held within six (6) months from and after the date of such prior election for the same or a similar purpose in any district which includes any part of the area which was affected by the prior election. In the event any school building is destroyed or rendered unusable for school purposes by reason of fire, flood or other catastrophe, and a school bond election for the purpose of the replacement of such building is prohibited by the provisions of this section, the state board of education shall have the power to authorize an election for such purpose by order based upon a finding of such facts. The provisions of this section shall not apply to school elections held solely for determining property tax levies for general school purposes not involving the issuance of bonds. This time requirement between elections shall not apply to municipalities or water and/or sewer districts when bond issues are being proposed for the installation or improvement of water supply systems or public sewerage systems which have been deemed necessary by the Idaho state board of health to bring such system or systems in conformance with state statutes or rules of the state board of health.

63-1311. Fees for services.

(1) Notwithstanding any other provision of law, the governing board of any taxing district may impose and cause to be collected fees for those services provided by that district which would otherwise be funded by property tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered.

(2) No charge, other than property taxes shall be included on a tax notice unless the taxing district placing such charge has received approval by the board of county commissioners to place such charge on the tax notice and meets the criteria set forth in section 63-902, Idaho Code.

63-1313. Limitation on property taxes -- Value of real and personal property -- Special tax levies.

(1) (a) Except as provided in section 63-802, Idaho Code, during any one (1) tax year, the maximum amount of all property taxes from all sources on any property subject to appraisal, assessment, and property taxation within the state of Idaho shall not exceed one percent (1%) of the market value for assessment purposes of such property, including the current market values of all residential improvements, notwithstanding any exemption of a portion of such values from property taxation.

(b) The limitation provided for in paragraph (a) of this subsection shall not apply to property taxes or special assessments to pay the principal of and the interest and redemption charges on any indebtedness incurred prior to the time this section becomes effective, nor shall the limitation provided for in paragraph (a) of this subsection apply to property taxes to pay the principal of and the interest and redemption charges on any indebtedness incurred on or after November 7, 1978, as prescribed by the constitution of the state of Idaho, nor shall the limitation provided for in paragraph (a) of this subsection apply to special assessments levied on or after November 7, 1978, as provided by law.

(2) The market value for assessment purposes of real and personal property subject to appraisal by the county assessor shall be determined by the county assessor according to the rules prescribed by the state tax commission, as provided in section 63-208, Idaho Code, but where real property is concerned it shall be the actual and functional use of the real property. All taxable property shall be annually appraised or indexed to reflect that valuation.

TITLE 63, CHAPTER 30
INCOME TAX

63-3022J. Deduction of value for technological equipment.

(1) For taxable years commencing on and after January 1, 1985, any individual or corporation may deduct from taxable income an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools, public universities, private universities, public colleges, private colleges, public community colleges, private community colleges, public technical colleges or private technical colleges, or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not reduce taxable income to less than zero. The deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the university, college, community college, technical college, school or library directly or indirectly in the education program of the university, college, community college, technical college, school or library and which is donated to the university, college, community college, technical college, school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to chapter 10, title 33, Idaho Code.

(4) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, title 33, Idaho Code.

(5) For purposes of this section, a public university, public college, public community college or public technical college means one that is located within this state and receives an appropriation from the legislature.

(6) For purposes of this section, a private university, private college, private community college or private technical college means one that is located within this state and is operated on a nonprofit basis.

(7) The state tax commission shall promulgate rules to administer the provisions of this section. The rules shall be promulgated in compliance with chapter 52, title 67, Idaho Code.

63-3029A. Income tax credit for charitable contributions -- Limitation. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho state library, and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or fifty dollars ($50.00), whichever is less.

2. In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the Northwest Association of Schools and Colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the Northwest Association of Schools and Colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

TITLE 63, CHAPTER 31
ANTICIPATION OF REVENUE BY TAXING DISTRICTS

63-3101. Taxing district defined. A taxing district within the meaning of this act is any county, any political subdivision of the state, any municipal corporation, including specially chartered cities, any school districts, including specially chartered school districts, any quasi-municipal corporation, or any other public corporation authorized by law to levy taxes, now or hereafter organized.

63-3102. Authority to borrow money. Any taxing district shall have power from time to time by resolution to borrow money and issue revenue anticipation bonds or notes, bearing interest at such rate as may be determined by the governing board, and maturing not more than one (1) year from the date thereof, for the purpose of providing funds in anticipation of the collection of taxes of the current fiscal year, in anticipation of the distribution of state appropriated funds, and in anticipation of other revenues of any nature, for the year in which said revenue anticipation bonds or notes are issued, exclusive of taxes required to be raised to pay the principal of outstanding bonded indebtedness of the taxing district, the proceeds of such bonds or notes to be used for the purpose for which said taxes are levied or such funds or other revenues are appropriated. The amount authorized to be borrowed by means of such revenue anticipation bonds or notes shall not exceed seventy-five per cent (75%) of the taxes levied for the current fiscal year and not yet collected by said taxing district, seventy-five per cent (75%) of the anticipated distribution from the public school income fund not yet collected for the current fiscal year, and seventy-five per cent (75%) of other revenues anticipated, as shown by the budget duly adopted by the taxing district and certified in accordance with section 63-804, Idaho Code, and not yet collected for the fiscal year. If the tax levy or budget for any fiscal year has not been completed, then the amount of revenue anticipation bonds or notes issued in anticipation of taxes, state funds, or other revenues to be levied for such fiscal year shall not exceed seventy-five per cent (75%) of the taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In determining the amount of revenue anticipation bonds or notes which may be issued, the governing body shall declare in the resolution providing for the issuance of such bonds or notes the amount of taxes levied or state funds or other revenues anticipated for the current fiscal year and the amount of such taxes or state funds or other revenues anticipated not yet collected by said taxing district, or in the event that the tax levy or budget for the fiscal year has not been completed, the governing authority shall declare in the resolution providing for the issuance of such revenue anticipation bonds or notes the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In each instance, taxes raised or to be raised to pay the principal of outstanding bonded indebtedness of the taxing district shall not be included in the amount of taxes or state funds or other revenues anticipated against which such revenue anticipation bonds or notes are authorized to be issued. Such revenue anticipation bonds or notes shall be negotiable instruments, and the full faith, credit and resources of the taxing district shall be pledged for the payment of the same. Such bonds or notes shall be issued in such form and detail as shall be determined by the governing authority of the taxing district by resolution duly adopted.

63-3103. Sale of revenue anticipation bonds or notes. Such revenue anticipation bonds or notes may be sold at public or private sale at such times, in such amounts and on such terms as may be determined by the governing body.

63-3104. Creation of fund to pay bonds or notes at maturity -- Payment of bonds or notes. To provide for the payment of said revenue anticipation bonds or notes at maturity, there shall be created by the resolution providing for the issuance of said revenue anticipation bonds or notes a special fund to be known as the "Revenue Anticipation Bond or Note Redemption Fund." Whenever any revenue anticipation bonds or notes have been issued in anticipation of the collection of taxes, or of state appropriated funds or other revenues, all such moneys thereafter collected or received, the collection of which has been so anticipated, shall be placed in the "Revenue Anticipation Bond or Note Redemption Fund" until such time as the funds accumulated therein shall be sufficient to pay all such revenue anticipation bonds or notes outstanding, together with interest thereon at maturity, and the funds so accumulated in the "Revenue Anticipation Bond or Note Redemption Fund" are hereby appropriated and set apart for such purpose only, and shall be used for no other purpose; provided, however, that nothing in this section shall be construed to limit the payment of the principal of and interest on said revenue anticipation bonds or notes solely to the taxes or other funds or revenues, in anticipation of which said bonds or notes were issued, but such bonds or notes shall be the direct and general obligation of the taxing district.

63-3105. Tax levy to cover deficiency in bond or note payments. In the event that the taxes collected for any fiscal year prior to date on which final installment of such taxes becomes delinquent, or other anticipated funds or revenues, shall not be sufficient to pay the revenue anticipation bonds or notes issued in anticipation of the collection of taxes or other funds or revenues of such fiscal year, the taxing district shall, in providing for the levy of taxes for the succeeding fiscal year, include in such tax levy for the succeeding fiscal year the amount necessary to cover such deficiency in the collection of such taxes or other funds or revenues, such levy in the succeeding year to be in an amount which, together with the amount of taxes then in such "Revenue Anticipation Bond or Note Redemption Fund" shall be sufficient to provide for the payment of principal of and interest on the revenue anticipation bonds or notes issued in anticipation of such taxes, funds, or other revenues and payable out of such fund.

63-3106. Issuance and sale of refunding bonds or notes by taxing districts to pay for revenue anticipation bonds or notes. A taxing district shall have power to issue refunding bonds or notes, with like limitations upon interest and maturity, and shall issue refunding bonds or notes where such refunding bonds or notes shall be necessary to provide for the payment of any revenue anticipation bonds or notes at maturity, or to provide for the payment of any revenue anticipation notes or bonds heretofore issued by any taxing district where such revenue anticipation notes or bonds are outstanding and unpaid after their maturity date. Said refunding bonds or notes shall be authorized by resolution and shall be issued, sold and paid as herein provided for the issuance, sale and payment of revenue anticipation bonds or notes. At no time shall the total amount outstanding of such revenue anticipation bonds or notes and such refunding bonds or notes exceed seventy-five per cent (75%)

of the amount of taxes levied or state funds or other revenues anticipated for the current fiscal year and not yet collected by said taxing district, or if such refunding bonds or notes are issued before the tax levy or budget for any fiscal year has been completed, then the total amount outstanding of such revenue anticipation bonds or notes and such refunding bonds or notes shall not exceed seventy-five per cent (75%) of the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year; provided that where refunding bonds or notes have been issued or the issuance thereof has been provided for by the adoption of a resolution for the purpose of refunding any revenue anticipation bonds or notes, the said revenue anticipation bonds or notes to be refunded by said refunding bonds or notes shall not be included in determining the total amount of revenue anticipation bonds and notes outstanding, but for that purpose shall be treated as having been refunded and retired by such refunding bonds or notes.

63-3107. Construction. This act shall be construed as full authority for the issuance of such revenue anticipation bonds or notes, and it shall not be necessary to comply with the requirements or provisions of any other statute relative to the issuance or sale of bonds or notes of any taxing district, in connection with the issuance of revenue anticipation bonds or notes issued under the authority of this act.

63-3108. Necessary actions authorized. In order to carry out the provisions of this act, all necessary actions are hereby authorized and directed.

TITLE 63, CHAPTER 36
SALES TAX

63-3638. Sales tax -- Distribution. All moneys collected under this chapter, except as may otherwise be required in section 63-3203, Idaho Code, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) Five hundred thousand dollars ($500,000) per year is continuously appropriated and shall be distributed to the permanent building account, provided by section 57-1108, Idaho Code.

(c) Four million eight hundred thousand dollars ($4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(d) (1) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(2) An amount equal to the sum required by the provisions of section 63-709, Idaho Code, is continuously appropriated and shall be paid as provided by section 63-709, Idaho Code.

(3) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(e) Six percent (6%) is hereby appropriated and shall be paid to the county treasurer of each county in amounts to be determined as follows:

(1) Each taxing district other than school districts shall be entitled to a base share of sales tax moneys equal to the amount distributed to that district for the fourth calendar quarter of 1979. The computation shall not include any distributions made to the credit of either the former county school levy or the state water pollution control levy. The percentage so determined for each taxing district shall be applied each quarter to the above percentage of sales tax. The resulting sums shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, which received sales tax moneys in 1979. Whenever a taxing district is dissolved, the dissolved district's share of sales moneys shall be credited continuously to the county current expense fund.

(2) Whenever the amount of nonschool district sales tax moneys distributed exceeds in any quarter the total amount of moneys distributed to nonschool districts for the base quarter, which is the fourth calendar quarter of 1979, by ten percent (10%), or more, the excess of the base quarter shall be paid to the county treasurer of each county for distribution to each

taxing district in the county, except school districts, in the following manner.

The state tax commission shall compute the percentage that the average amount of taxes collected from assessments for the years 1965, 1966 and 1967 on the personal property described as business inventory in subsections (1) and (2) of section 63-602W, Idaho Code, for each county bears to the average total amount of taxes collected from assessments for said years on the personal property described as business inventory in subsections (1) and (2) of section 63-602W, Idaho Code, for all counties in the state. The percentage so determined for each county shall be applied to the sales tax distributed under this subsection and the resulting sum shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, in the county as follows:

(i) Each year the county commissioners in each county shall take the tax charge, applicable to the current property roll equalized by county commissioners sitting as a board of equalization, of each taxing district within the county, except school districts, and divide it by the total current tax charges applicable to the current property roll of all taxing districts, except school districts, within said county and the resulting percentages shall be applied to the county's proportionate share of said sales tax account and the resulting amount shall be distributed to each taxing district in the county periodically but not less frequently than quarterly by the county auditor and applied by such taxing districts in the same manner and in the same proportions as revenues from property taxation.

(ii) The moneys set aside and appropriated to the county treasurer out of the sales tax account above may be considered by the counties and other taxing districts and budgeted against at the same time, in the same manner and in the same year as revenues from taxation on all classes of personal property which these moneys replace.

(3) All moneys distributed pursuant to subsection (e) shall be subject to the redistribution provisions of section 40-801, Idaho Code, where applicable.

(f) One dollar ($1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(g) Seven and three-quarters percent (7.75%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state operating fund, and the moneys in the revenue sharing account will be paid by the tax commission as follows:

(1) One-half (1/2) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(2) One-half (1/2) shall be paid to the state's general account or to the various counties as follows:

(i) One million three hundred twenty thousand dollars ($1,320,000) shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state.

(h) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general account.

TITLE 67, CHAPTER 4
LEGISLATURE

67-450A. Charges for audit. The annual appropriation to the office of legislative services from the general fund shall provide for authorized audits and services to general fund departments, agencies, commissions, or institutions without charge to the unit receiving such services. The cost and expenses incurred by the legislative services office in conducting audits or in carrying out other work authorized by law in dedicated funds, shall be paid from the appropriation to the office, department, board, commission, or institution and/or the dedicated funds under the control of the office, department, board, commission, or institution for whom the work is done. The audit fee or costs of work performed in such dedicated fund agencies shall be based on an hourly rate computed by the legislative services office and shall be sufficient to defray all costs and expenses incurred, including but not limited to related salary, travel and office overhead expenses. The legislative services office may require partial payments, during the course of the audit, for services rendered and expenses incurred. All charges shall be paid within thirty (30) days after billing is received.

All moneys received from the various dedicated fund agencies shall be added to the legislative services office's appropriation from the general fund and are hereby appropriated to the legislative services office, providing that the legislative services office's expenditures shall not exceed the amount appropriated by the legislature.

67-450B. Independent financial audits by governmental entities -- Filing requirements.

(1) The requirements set forth in this section are minimum audit requirements for all local governmental entities, and include, without limitation, all cities, counties, authorities and districts organized as separate legal and reporting entities under Idaho law, and include the councils, commissions and boards as appointed or elected and charged with fiscal management responsibilities of the local governmental entity.

Audits under these requirements are to be performed by independent auditors in accordance with generally accepted governmental auditing standards, as defined by the United States general accounting office. The auditor shall be employed on written contract.

The entity's governing body shall be required to include in its annual budget all necessary expenses for carrying out the provisions of this section.

The entity shall file two (2) copies of each completed audit report with the legislative council within ten (10) days after receiving the audit from the contracting independent auditor.

(2) The minimum requirements for any audit performed under the provisions of this section are:

(a) The governing body of a local governmental entity whose annual budget (from all sources) exceeds two hundred fifty thousand dollars ($250,000) shall cause a full and complete audit of its financial statements to be made each fiscal year.

(b) The governing body of a local governmental entity whose annual budget (from all sources) exceeds one hundred thousand dollars ($100,000), but does not exceed two hundred fifty thousand dollars ($250,000) may elect to have its financial statements audited on a biennial basis and may continue biennial auditing cycles in subsequent years as long as the entity's budget does not exceed two hundred fifty thousand dollars ($250,000) during either year of any biennial period. Biennial audits shall include an audit of each fiscal year since the previous audit.

(c) The governing body of a local governmental entity whose annual budget (from all sources) exceeds fifty thousand dollars ($50,000), but does not exceed one hundred thousand dollars ($100,000) may elect to have its financial statements reviewed on a biennial basis and may continue biennial review cycles in subsequent years as long as the entity's annual budget does not exceed one hundred thousand dollars ($100,000) during either year of any biennial period. Biennial reports of review shall include a review of each fiscal year since the previous review report.

(d) The governing body of a local governmental entity whose annual budget (from all sources) does not exceed fifty thousand dollars ($50,000) has no minimum audit requirements under this section.

(e) Federal audit requirements applicable because of receipt of federal assistance supersede the minimum audit requirements provided in this section.

TITLE 67, CHAPTER 23
MISCELLANEOUS PROVISIONS

67-2309. Written plans and specifications for work to be made by officials -- Availability. All officers of the state of Idaho, the separate counties, cities, towns, villages or school districts within the state of Idaho, all boards or trustees thereof or other persons required by the statutes of the state of Idaho to advertise for bids on contracts for the construction, repair or improvement of public works, public buildings, public places or other work, shall make written plans and specifications of such work to be performed or materials furnished, and such plans and specifications shall be available for all interested and prospective bidders therefor, providing that such bidders may be required to make a reasonable deposit upon obtaining a copy of such plans and specifications; all plans and specifications for said contracts or materials shall state, among other things pertinent to the work to be performed or materials furnished, the number, size, kind and quality of materials and service required for such contract, and such plans and specifications shall not specify or provide the use of any articles of a specific brand or mark, or any patented apparatus or appliances when other materials are available for such purpose and when such requirements would prevent competitive bidding on the part of dealers or contractors in other articles or materials of equivalent value, utility or merit. The design-build method of construction may be employed by public officials in contracts for the construction, repair, or improvement of public works, public buildings, public places or other work. For purposes of this section, a design-build contract is a contract between a public entity and a nongovernmental party in which the nongovernmental party contracting with the public entity agrees to both design and build a structure, roadway or other item specified in the contract. In any action which shall arise under this section, the court may assess a civil penalty not to exceed five hundred dollars ($500) to be paid by the public entity.

67-2326. Joint action by public agencies -- Purpose. It is the purpose of this act to permit the state and public agencies to make the most efficient use of their powers by enabling them to cooperate to their mutual advantage and thereby provide services and facilities and perform functions in a manner that will best accord with geographic, economic, population, and other factors influencing the needs and development of the respective entities.

67-2327. Definitions. "Public agency" means any city or political subdivision of this state, including, but not limited to counties; school districts; highway districts; and port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the state of Idaho; any agency of the state government; and any city or political subdivision of another state.

"State" means a state of the United States and the District of Columbia.

67-2328. Joint exercise of powers.

(a) Any power, privilege or authority, authorized by the Idaho Constitution, statute or charter, held by the state of Idaho or a public agency of said state, may be exercised and enjoyed jointly with the state of Idaho or any other public agency of this state having the same powers, privilege or authority; but never beyond the limitation of such powers, privileges or authority; and the state or public agency of the state, may exercise such powers, privileges and authority jointly with the United States, any other state, or public agency of any of them, to the extent that the laws of the United States or sister state, grant similar powers, privileges or authority, to the United States and its public agencies, or to the sister state and its public agencies; and provided the laws of the United States or a sister state allow such exercise of joint power, privilege or authority. The state or any public agency thereof when acting jointly with another public agency of this state may exercise and enjoy the power, privilege and authority conferred by this act; but nothing in this act shall be construed to extend the jurisdiction, power, privilege or authority of the state or public agency thereof, beyond the power, privilege or authority said state or public agency might have if acting alone.

(b) Any state or public agency may enter into agreements with one another for joint or cooperative action which includes, but is not limited to, joint use, ownership and/or operation agreements pursuant to the provisions of this act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of these participating public agencies shall be necessary before any such agreement may enter into force.

(c) Any such agreement shall specify the following:

(1) Its duration.

(2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created.

(3) Its purpose or purposes.

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (1), (3), (4), (5), and (6) of subsection (c) of this section, contain the following:

(1) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented.

(2) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(3) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performances may be offered in satisfaction of the obligation or responsibility.

67-2329. Agreement filed with secretary of state -- Constitutionality -- Enforceable in courts -- Reciprocity. Prior to its becoming binding, any agreement made pursuant to this act between two

(2) or more states or between two (2) or more public agencies of two (2) or more states shall be filed with the secretary of state, who shall require an opinion of the attorney general that such agreement does not violate the provisions of the Constitution of the United States, or the Idaho Constitution and statutes. Such opinion shall be rendered within thirty (30) days from the date of request by the secretary of state and submitted to the secretary and interested parties. Failure to render such opinion within such time shall be considered as approval by the attorney general. Upon receiving an opinion that the agreement is constitutional the secretary shall notify the agreeing parties and the agreement shall be in full force and effect from the date of such notice, provided, that such agreement shall not be enforced by the courts of this state unless the state of Idaho or public agency thereof is provided due process for enforcement in the courts of the United States or a sister state. In the event of action on any such agreement, any state or public agency joined in such action not a real party in interest, may seek damages incurred by it because of such joinder against any proper party to the action.

67-2330. Approval of appropriate state officer or agency. In the event that an agreement made pursuant to this act shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction. Failure to disapprove an agreement submitted hereunder within thirty (30) days of its submission shall constitute approval thereof.

67-2331. Funds -- Property -- Personnel -- Services. Any public agency entering into an agreement pursuant to this act may appropriate funds and may sell, lease, give, or otherwise supply public property to the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

67-2332. Interagency contracts. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, including, but not limited to joint contracting for services, supplies and capital equipment, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.

67-2333. Powers of agencies not increased or diminished. Nothing in this act shall be interpreted to grant to any state or public agency thereof the power to increase or diminish the political or governmental power of the United States, the state of Idaho, a sister state, nor any public agency of any of them.

67-2334. "Volunteer" defined. For the purposes of this act, "volunteer" means any person who contributes his services in a program or service conducted or sponsored by any agency, department or unit of state government for which he receives no financial remuneration, except for reasonable and necessary expenses actually incurred in the course of his participation in the program.

67-2335. Acceptance of volunteers -- Expenses. No law of this state prohibits any agency, department or unit of state government from accepting volunteers for any program which it conducts or sponsors. The agency, department or unit of state government sponsoring the program or service may reimburse volunteers for reasonable and necessary expenses actually incurred in the course of their participation in those programs.

67-2336. Qualifications of volunteers. Civil service law and requirements shall not apply to volunteers in any program conducted or sponsored by any agency, department or unit of state government. Requirements for volunteers are limited to requirements set by federal statute and to any requirements set by the agency, department or unit of state government sponsoring the program or service.

67-2337. Extraterritorial authority of peace officers.

(1) As used in this section, "peace officer" shall mean a certified full-time paid employee of a police or law enforcement agency whose duties include and primarily consist of the prevention, investigation and detection of crime, and the enforcement of penal, traffic, or highway laws of this state or any political subdivision.

(2) All authority that applies to peace officers when performing their assigned functions and duties within the territorial limits of the respective city or political subdivisions, where they are employed, shall apply to them outside such territorial limits to the same degree and extent only when any one (1) of the following conditions exist:

(a) A request for law enforcement assistance is made by a law enforcement agency of said jurisdiction.

(b) The peace officer possesses probable cause to believe a crime is occurring involving a felony or an immediate threat of serious bodily injury or death to any person.

(c) When a peace officer is in fresh pursuit as defined in and pursuant to chapter 7, title 19, Idaho Code.

(3) Subsection (2) of this section shall not imply that peace officers may routinely perform their law enforcement duties outside their jurisdiction in the course and scope of their employment.

(4) Cities or political subdivisions may enter into mutual assistance compacts with other cities or political subdivisions of this state or of states immediately adjacent. In the case of a mutual assistance compact between cities or political subdivisions, the original, employing agency shall be responsible for any liability arising from the acts of its employees participating in such compact. Any mutual assistance compact between a city or political subdivision of this state with a city or political subdivision of any other state shall include a written statement of assumption of liability consistent with the requirements of this section.

(5) Circumstances surrounding any actual exercise of peace officer authority outside the territorial limits of the city, county, or political subdivision of their employment shall be reported, as soon as safety conditions allow, to the law enforcement agency having jurisdiction where the

authority granted herein is exercised and the officer shall relinquish authority and control over any event to the authority having jurisdiction.

(6) The state of Idaho and its agencies or departments shall not be liable for the acts of police officers, other than its own employees, commissioned by the director of the department of law enforcement, for acts done under a mutual assistance compact created under this section.

67-2338. Extraterritorial benefits of public officers. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation insurance, and other benefits which apply to the activity of officers, agents, or employees of any city or political subdivision when performing their respective functions within the territorial limits of their respective cities or political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially.

67-2339. Mutual aid by state agencies. State agencies may provide mutual aid, including personnel, equipment, detention facilities, including the state penitentiary and other available resources, to assist cities or political subdivisions in accordance with mutual aid agreements or at the direction of the governor.

67-2340. Formation of public policy at open meetings. The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

67-2341. Open public meetings -- Definitions. As used in this act:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with sections 67-2342 through 67-2346, Idaho Code.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body which is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) any state board, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) any regional board, commission, department or authority created by or pursuant to statute;

(c) any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

(d) any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.

(5) "Governing body" means the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

67-2342. Governing bodies -- Requirement for open public meetings.

(1) Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in chapter 38, title 63, Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under chapter 43, title 41, Idaho Code, the Idaho insurance guaranty association established under chapter 36, title 41, Idaho Code, and the surplus line association approved by the director of the Idaho department of insurance as authorized under chapter 12, title 41, Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

67-2343. Notice of meetings.

(1) Regular meetings. No less than a five (5) calendar day meeting notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. A forty-eight (48) hour agenda notice shall be required in advance of each regular meeting, however, additional agenda items may be added after completion of the agenda up to and including the hour of the meeting, provided that a good faith effort is made to include in the notice all agenda items known at the time to be probable items of discussion. The notice requirement for

meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or if no such office exists, at the building where the meeting is to be held.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

67-2344. Written minutes of meetings.

(1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, resolutions, orders, or ordinances proposed and their disposition;

(c) The results of all votes, and upon the request of a member, the vote of each member, by name;

(2) Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with the provisions of section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the meeting.

67-2345. Executive sessions -- When authorized.

(1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization under this act for the holding of such executive session. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation;

(g) By the commission of pardons and parole, as provided by law;

(h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

67-2346. Open legislative meetings required. All meetings of any standing, special or select committee of either house of the legislature of the state of Idaho shall be open to the public at all times, and any person may attend any meeting of a standing, special or select committee, but may participate in the committee only with the approval of the committee itself.

67-2347. Violations.

(1) If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the provisions of sections 67-2340 through 67-2346, Idaho Code, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of sections 67-2340 through 67-2346, Idaho Code, who knowingly conducts or participates in a meeting which violates the provisions of this act shall be subject to a fine not to exceed one hundred fifty dollars ($150) for a first violation and not to exceed three hundred dollars ($300) for each subsequent violation as a civil penalty.

(3) The attorney general shall have the duty to enforce this act in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this act in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this act, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose as provided in section 31-2603, Idaho Code.

(4) Any person affected by a violation of the provisions of this act may commence a civil action in the magistrate division of the district court of the county in which the public agency ordinarily meets, for the purpose of requiring compliance with provisions of this act. No private

action brought pursuant to this subsection shall result in the assessment of a civil penalty against any member of a public agency and there shall be no private right of action for damages arising out of any violation of the provisions of sections 67-2342 through 67-2346, Idaho Code. Any suit brought for the purpose of having an action declared or determined to be null and void pursuant to subsection (1) of this section shall be commenced within thirty (30) days of the time of the violation or alleged violation of the provisions of this act. Any other suit brought under the provisions of this section shall be commenced within one hundred eighty (180) days of the time of the violation or alleged violation of the provisions of this act.

67-2348. Preference for Idaho domiciled contractors on public works. To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract to a contractor for any public works, the contractor domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible contractor domiciled in Idaho as would be required for such an Idaho domiciled contractor to succeed over the bidding contractor domiciled outside Idaho on a like contract being let in his domiciliary state.

67-2349. Preference for Idaho suppliers for purchases. To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract for purchase of any materials, supplies, services or equipment, the bidder domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible bidder domiciled in Idaho as would be required for such an Idaho domiciled bidder to succeed over the bidder domiciled outside Idaho on a like contract being let in his domiciliary state.

For the purposes of this section, any bidder domiciled outside the boundaries of the state of Idaho may be considered as an Idaho domiciled bidder, provided that there exists for a period of one (1) year preceding the date of the bid a significant Idaho economic presence as defined herein. A significant economic presence shall consist of the following:

(a) That the bidder maintain in Idaho fully staffed offices, or fully staffed sales offices or divisions, or fully staffed sales outlets, or manufacturing facilities, or warehouses or other necessary related property; and

(b) If a corporation be registered and licensed to do business in the state of Idaho with the office of the secretary of state.

TITLE 67, CHAPTER 52
IDAHO ADMINISTRATIVE PROCEDURE ACT

67-5203. Publication of administrative bulletin.

(1) All documents required or authorized in this chapter or by other provision of law to be published shall initially be published in the bulletin. The bulletin shall be published by the administrative rules coordinator not less frequently than the first Wednesday of each calendar month, but not more frequently than every other week.

(2) The bulletin shall contain all previously unpublished documents filed with the coordinator in compliance with a publication schedule established by the coordinator.

(3) Each issue of the bulletin shall contain a table of contents. A cumulative index shall be published at least every three (3) months.

(4) The following documents, if not required to be otherwise published, shall be published in the bulletin:

(a) all executive orders of the governor;

(b) agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and pending rules, together with any explanatory material supplied by the agency;

(c) all agency documents required by law to be published in the bulletin; and

(d) any legislative documents affecting a final agency rule.

(5) The text of all documents published in the bulletin shall be the official text of that document until the document has been published in the administrative code. Judicial notice shall be taken of all documents published in the bulletin.

(6) The coordinator shall provide a process for access to the contents of the bulletin and to the administrative code by electronic means.

67-5204. Publication of administrative code.

(1) The administrative rules coordinator shall annually publish a publication to be known as the "Idaho Administrative Code."

(2) The administrative code shall be a codification of:

(a) all executive orders of the governor that have been published in the bulletin and have not been rescinded;

(b) the text of all final rules;

(c) any legislative documents affecting a final agency rule; and

(d) all documents required by law to be published in the administrative code.

(3) The text of all documents published in the administrative code shall be the official text of that document. Judicial notice shall be taken of all documents published in the administrative code.

67-5205. Format -- Costs -- Distribution -- Funds.

(1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the

coordinator, individual printed pamphlet copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, for reprints and bound volumes thereof and for pamphlet rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state, and the number of copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section, shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state. Free copies shall be distributed by the coordinator, as follows:

(a) One (1) to each county clerk for the use of the county law library.
(b) One (1) each to the senate and the house of representatives.
(c) One (1) to the attorney general.
(d) One (1) to the legislative services office.
(e) One (1) each to the state universities and colleges, and one (1) to each community college.
(f) One (1) to the state law library.
(g) One (1) to the state library.
(h) One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library and Twin Falls Public Library.

In addition to those free copies required to be distributed by this section, the coordinator shall provide to the legislature free copies of all rules subject to review by the legislature pursuant to section 67-5291, Idaho Code, and may distribute other free copies for official use.

(3) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(4) There is hereby created in the state treasury the administrative code fund. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the fund. All agencies which have any material published in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of publication and distribution of such material. All moneys placed in the fund may be appropriated to the coordinator for the administration of the

provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall charge an annual fee to each participating agency for each page published in the administrative code not to exceed fifty-six dollars ($56.00) per page. In addition, the coordinator shall charge a fee to each participating agency for each page published in the bulletin not to exceed sixty-one dollars ($61.00) per page. A fee per page may be charged even though less than a full page of publication is required, and each participating agency shall promptly pay into the administrative code fund such charge.

TITLE 67, CHAPTER 77
BINGO AND RAFFLES

67-7710. Raffles and duck races.

(1) It is lawful for any charitable organization to conduct raffles in accordance with the provisions of this chapter. Any charitable or nonprofit organization who conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles shall be limited to twelve (12) per charitable organization per year.

(3) The maximum cash prize that may be offered or paid for any one (1) raffle, which is not a duck race, is one thousand dollars ($1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise. For duck races, there shall be no limit on the maximum amount of the value of a cash prize if the cash prize is underwritten by insurance. If a duck race offers a cash prize that is not underwritten by insurance, the maximum cash prize is one thousand dollars ($1,000). There shall be no limit on the maximum of value for merchandise used as a prize in a duck race if the merchandise is not redeemable for cash.

(4) As used in this subsection, "net proceeds of a charitable raffle" means the gross receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean gross receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the charitable organization for charitable, religious, educational, civic or other nonprofit purposes.

(5) Any licensed charitable or nonprofit organization conducting raffles pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of raffles conducted or sponsored by the charitable or nonprofit organization;
(b) The location and date at which each raffle was conducted;
(c) The gross revenues of each raffle;
(d) The fair market value of any prize given at each raffle;
(e) The amount paid in prizes at each raffle;
(f) The amount paid to the charitable organization;
(g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission.

(6) Every charitable or nonprofit organization whose annual gross revenues exceed one hundred fifty thousand dollars ($150,000) from the operation of raffle events shall provide the state

lottery with a copy of an annual report of the raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

67-7711. Licensing procedure.

(1) Any charitable or nonprofit organization not exempt pursuant to section 67-7714, Idaho Code, desiring to operate bingo sessions or games or charitable raffles shall make application for a license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met requirements imposed in this act and rules promulgated pursuant to this act. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When a license application is approved by the state lottery, the state lottery shall issue a license to the applicant. No person or charitable or nonprofit organization shall operate or conduct a bingo session or game or charitable raffle until it has received a license from the state lottery. The license shall expire one (1) year after the date it was issued. A copy of the license shall be furnished to the county sheriff of the county or the chief of police of the city in which the licensee intends to operate a bingo session or game or sell charitable raffle tickets before a bingo session or game or a charitable raffle is conducted by the licensee.

(2) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, association or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization;

(b) The name, home address, date of birth, driver's license number and social security number of each of the person or persons responsible for managing the bingo session or game or raffle;

(c) (i) In the case of charitable organizations, a copy of the application for recognition of exemptions and a determination letter from the internal revenue service and the state tax commission that indicates that the organization is a charitable organization and stating the section under which that exemption is granted, except that if the organization is a state or local branch, lodge, post or chapter of a national organization, a copy of the determination letter of the national organization shall satisfy this requirement;

(ii) In the case of incorporated nonprofit organizations, a copy of a certificate of existence issued by the secretary of state pursuant to chapter 3, title 30, Idaho Code, establishing the organization's good standing in the state; and

(iii) In the case of unincorporated nonprofit associations operating pursuant to chapter 7, title 53, Idaho Code, a statement meeting the requirements of section 53-710, Idaho Code, for appointing an agent for service of process.

(d) The location at which the applicant will conduct the bingo session or games or drawings for the raffles.

(3) The operation of bingo sessions or games or charitable raffles shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the organization. If the governing body has not appointed a special committee, the members of the governing body shall be held responsible for the conduct of the bingo sessions or games or raffles. No directors or officers of an organization or persons related to them either by marriage or blood within the second degree shall receive any compensation derived from the proceeds of a bingo session or raffle regulated under the provisions of this chapter. An organization shall not contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo session or raffle on the organization's behalf. However, if the state lottery commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo sessions, the charitable or nonprofit organization may participate in that contract or agreement.

(4) Different chapters of an organization may apply for and share one (1) license to conduct raffles so long as the information required in subsection (2) of this section is provided to the lottery prior to the issuance of the license.

(5) The organization may apply for the license to coincide with the organization's fiscal year.

67-7712. License fees -- Suspension or revocation.

(1) Each organization that applies to the state lottery for a license pursuant to this chapter shall pay annually to the state lottery a nonrefundable license fee which shall be due upon submission of the application. License fees shall be based on the organization's gross revenues from bingo or raffle operations as required to be reported by statute or rule of the commission. Organizations with gross revenues of twenty-five thousand dollars ($25,000) or less shall pay a fee of one hundred dollars ($100). Organizations with gross revenues of twenty-five thousand dollars ($25,000) to seventy-five thousand dollars ($75,000) shall pay a fee of two hundred dollars ($200). Organizations with gross revenues exceeding seventy-five thousand dollars ($75,000) shall pay a fee of three hundred dollars ($300). New organizations with no history of gross revenues shall pay a fee of one hundred dollars ($100), and the gross revenues indicated in the organization's first annual report shall determine the license renewal fee.

(2) Any license issued pursuant to this chapter shall be suspended or revoked by the state lottery if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter or any rule of the lottery commission or ordinance of a county adopted pursuant to this chapter or:

(a) Has continued to operate bingo sessions or games after losing its tax exempt or nonprofit status or ceases to exercise independent control over its activities or budget as required under the provisions of this chapter;

(b) Has violated or has failed or refused to comply with the provisions of this chapter, or has violated the provisions of a rule of the lottery commission or has allowed such a violation to occur upon premises over which the licensee has substantial control;

(c) Has knowingly caused, aided or abetted, or conspired with another to cause, any person to fail or refuse to comply with the provisions, requirements, conditions, limitation or duties imposed in this chapter, or to fail or refuse to comply with a rule adopted by the state lottery commission;

(d) Has obtained a license or permit by fraud, misrepresentation or concealment, or through inadvertence or mistake;

(e) Has been convicted, forfeited bond, or has been granted a withheld judgment, upon a charge involving forgery, theft, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports to a governmental agency, or any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving gambling activity, physical injury to individuals or moral turpitude;

(f) Denies the state lottery access to any place where a licensed game is conducted, denies access to any law enforcement officer, or fails promptly to produce for inspection or audit any records or items as required by law;

(g) Fails to have the license available for verification where the licensed game is conducted;

(h) Misrepresents or fails to disclose to the state lottery or any investigating law enforcement officer any material fact;

(i) Fails to demonstrate to the state lottery by clear and convincing evidence, qualifications for the license according to state law and the rules of the state lottery establishing such qualifications;

(j) Is subject to current prosecution or pending charges, or to a conviction regardless of whether it has been appealed, for any offense described in paragraph (e) of this subsection. At the request of an applicant for an original license, the state lottery may defer decision upon the application during the pendency of the prosecution or appeal;

(k) Has pursued or is pursuing economic gain in a manner or context which violates criminal or civil public policy of this state and creates a reasonable belief that the participation of the person in gaming operations by charitable or nonprofit organizations would be harmful to the proper operation of a lawful bingo or raffle.

(3) The state lottery may, upon its own motion or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized in this chapter. If the state lottery has reasonable cause to believe that any gaming as described in this chapter violates any of the provisions of this chapter or rules promulgated pursuant to this chapter, it may, in its discretion revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or it may refuse to grant a renewal of the license or it may take other action as may be appropriate under this act and any rules promulgated pursuant to this act. If the state lottery shall refuse to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar day notice period, the applicant or licensee shall indicate its acceptance of the decision of the state lottery or shall request a hearing to be held in the same manner as hearings in contested cases pursuant to chapter 52, title 67, Idaho Code. The hearing shall be conducted within twenty-one (21) days of the request. The applicant or licensee may appeal the decision of the state lottery after the hearing within the same time and manner as provided for judicial review of actions pursuant to chapter 52, title 67, Idaho Code.

Failure to make the request for a hearing as provided herein, shall render the decision of the state lottery final and not subject to further appeal.

67-7713. Exemption from licensure requirements. A charitable or nonprofit organization conducting a bingo game shall not be required to obtain a license, file reports or pay fees pursuant to this chapter if the organization conducts a bingo game and the maximum prize offered or paid for any one (1) game of bingo does not exceed two hundred fifty dollars ($250) and the maximum amount of prizes, in cash and/or merchandise at fair market value offered during any one (1) session of bingo does not exceed one thousand dollars ($1,000). A charitable or nonprofit organization conducting a raffle shall not be required to obtain a license, file reports or pay fees pursuant to this chapter if the organization conducts a raffle in which the aggregate amount of prizes does not exceed one thousand dollars ($1,000) in cash or if merchandise used as a prize or prizes does not have a maximum fair market value in excess of five thousand dollars ($5,000).

67-7714. Rules and forms. The state lottery commission is authorized to promulgate rules consistent with this act in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this act and shall prescribe standardized forms for implementation of this act.

67-7715. Vendors -- Licensing -- Fees.

(1) No person or entity shall manufacture, sell, distribute, furnish or supply to any person or entity any gaming device, equipment or material, in this state or for use in this state, without first obtaining a vendor's license from the state lottery commission. Vendor licenses shall not be issued by the state lottery except respecting devices, equipment or material designed and permitted to be used in connection with activities authorized under this chapter. Provided however, that this licensing requirement shall apply only insofar as the state lottery commission has adopted rules implementing it as to particular categories of gaming devices and related material and equipment.

(2) Any person or entity that manufactures, sells, distributes, furnishes or supplies any gaming device, equipment or material, in this state or for use in this state shall make application for a vendor license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met the requirements imposed in this act and rules promulgated pursuant to this act. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When the license application is approved by the state lottery, the state lottery shall issue a license to the applicant.

(3) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated.

(b) The locations or persons with which the applicant will provide any gaming device, equipment or material in this state or for use in this state.

(4) Any licensee under this section shall submit an annual revenue report to the Idaho lottery commission within thirty (30) days of the end of the licensed year on the prescribed forms provided by the Idaho lottery commission.

(5) Each applicant shall pay annually to the state lottery a nonrefundable license fee of two hundred dollars ($200) which shall be due upon submission of the application.

(6) Any license issued pursuant to this chapter shall be suspended or revoked by the state lottery if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter, particularly those in section 67-7712, Idaho Code, or any rule of the lottery commission.

APPENDIX A

ADDITIONAL IDAHO CODE SECTIONS CONTAINING THE WORD "LIBRARY" OR "LIBRARIAN"

TITLE 33, CHAPTER 38 – STATE INSTITUTIONS OF HIGHER EDUCATION BOND ACT
33-3802. Definitions.

TITLE 41, CHAPTER 6 – ASSETS AND LIABILITIES
41-603. Assets not allowed.

TITLE 47, CHAPTER 2 – BUREAU OF MINES AND GEOLOGY
47-203. Duties -- Publications -- Cooperation with other agencies -- Satellite offices.

TITLE 60, CHAPTER 1 – CONTRACTS FOR PRINTING -- PUBLICATION OF NOTICES
60-101. Contracts for state printing -- Execution within state --Exception.
60-103. Exception in case of excessive charge -- Exceptions for lack of production facilities on bids on state work.

TITLE 63, CHAPTER 6 – EXEMPTIONS FROM TAXATION
63-602F. Property exempt from taxation.

TITLE 67, CHAPTER 4 – LEGISLATURE
67-429. Powers and duties.

TITLE 67, CHAPTER 7 – LEGISLATIVE COUNSEL
67-707. Access to law library and official records of state.

TITLE 67, CHAPTER 9 – SECRETARY OF STATE
67-906. Distribution of session laws and journals.

TITLE 67, CHAPTER 14 – ATTORNEY GENERAL
67-1401. Duties of attorney general.

TITLE 67, CHAPTER 42 – STATE PARKS
67-4238. Authority of director to enter into agreements.

TITLE 67, CHAPTER 52 – IDAHO ADMINISTRATIVE PROCEDURE ACT
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TITLE 67, CHAPTER 53 – PERSONNEL SYSTEM
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APPENDIX B

IDAHO STATE LIBRARY
325 WEST STATE STREET
BOISE, IDAHO 83702

1999-2000 Idaho State Library Board

Pete Black	Chair
Jo Leuze	Vice-Chair
Richard Rognas	Secretary
Bruce Noble	Member
Larry Weeks	Member
Carolyn Mauer	Representative for Dr. Marilyn Howard, Superintendent for Public Instruction

Idaho State Library Contacts

Charles A. Bolles	State Librarian
Ann Joslin	Associate Director for Library Development
Karin Ford	Associate Director for Information Services
Rich Wilson	Administrative Services Manager

Talking Book Library	1-800-233-4931
Government Information Services	1-800-458-3271
Reference Desk	
Circulation/ILL	
Videos	
Library Development Division	1-800-458-3271
North Idaho Field Office	1-800-330-7070
East Idaho Field Office	1-800-548-6212

NOTES

APPENDIX C

This is a subject index to the Idaho Code, Title 33, Chapters 25, 26 and 27. The statutes reprinted or quoted verbatim in the following pages are taken from the Idaho Code, Copyright 1992-1999 by LEXIS Law Publishing (formerly Michie), a division of Reed Elsevier, Inc. and are reprinted with the permission of LEXIS Law Publishing. All rights reserved.

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